

**CITY OF NEWPORT BEACH  
PLANNING COMMISSION AGENDA  
CITY COUNCIL CHAMBERS – 100 CIVIC CENTER DRIVE**

**THURSDAY, NOVEMBER 7, 2013  
REGULAR MEETING – 6:30 p.m.**

**BRADLEY HILLGREN  
Chair**

**LARRY TUCKER  
Vice Chair**

**KORY KRAMER  
Secretary**

**FRED AMERI**

**TIM BROWN**

**RAYMOND LAWLER**

**JAY MYERS**

**Planning Commissioners** are citizens of Newport Beach who volunteer to serve on the Planning Commission. They were appointed by the City Council by majority vote for 4-year terms. At the table in front are City staff members who are here to advise the Commission during the meeting. They are:

**KIMBERLY BRANDT, Community Development Director**

**BRENDA WISNESKI, Deputy Community  
Development Director**

**LEONIE MULVIHILL, Assistant City Attorney**

**TONY BRINE, City Traffic Engineer**

**MARLENE BURNS, Administrative Assistant**

**NOTICE TO THE PUBLIC**

Regular meetings of the Planning Commission are held on the Thursdays preceding second and fourth Tuesdays of each month at 6:30 p.m. The agendas, minutes, and staff reports are available on the City's web site at: <http://www.newportbeachca.gov> and for public inspection in the Community Development Department, Planning Division located at 100 Civic Center Drive, during normal business hours. If you have any questions or require copies of any of the staff reports or other documentation, please contact the Community Development Department, Planning Division staff at (949) 644-3200.

This Commission is subject to the Ralph M. Brown Act. Among other things, the Brown Act requires that the Commission's agenda be posted at least 72 hours in advance of each meeting and that the public be allowed to comment on agenda items before the Commission and items not on the agenda but are within the subject matter jurisdiction of the Commission. The Commission may limit public comments to a reasonable amount of time, generally three (3) minutes per person. All testimony given before the Planning Commission is recorded.

It is the intention of the City of Newport Beach to comply with the Americans with Disabilities Act (ADA) in all respects. If, as an attendee or a participant of this meeting, you will need special assistance beyond what is normally provided, the City of Newport Beach will attempt to accommodate you in every reasonable manner. Please contact Leilani Brown, City Clerk, at least 72 hours prior to the meeting to inform us of your particular needs and to determine if accommodation is feasible (949-644-3005 or [lbrown@newportbeachca.gov](mailto:lbrown@newportbeachca.gov)).

**APPEAL PERIOD:** Use Permit, Variance, Site Plan Review, and Modification Permit applications do not become effective until 14 days following the date of approval, during which time an appeal may be filed with the City Clerk in accordance with the provisions of the Newport Beach Municipal Code. Tentative Tract Map, Tentative Parcel Map, Lot Merger, and Lot Line Adjustment applications do not become effective until 10 days following the date of approval, during which time an appeal may be filed with the City Clerk in accordance with the provisions of the Newport Beach Municipal Code. General Plan and Zoning Amendments are automatically forwarded to the City Council for final action.

**NEWPORT BEACH PLANNING COMMISSION AGENDA  
CITY COUNCIL CHAMBERS – 100 CIVIC CENTER DRIVE  
THURSDAY, NOVEMBER 7, 2013  
REGULAR MEETING – 6:30 p.m.**

**I. CALL TO ORDER**

**II. PLEDGE OF ALLEGIANCE**

**III. ROLL CALL**

**IV. PUBLIC COMMENTS**

*Public comments are invited on non-agenda items generally considered to be within the subject matter jurisdiction of the Planning Commission. Speakers must limit comments to three (3) minutes. Before speaking, please state your name for the record and print your name on the blue forms provided at the podium.*

**V. REQUEST FOR CONTINUANCES**

**VI. CONSENT ITEMS**

**ITEM NO. 1     MINUTES OF OCTOBER 17, 2013**

**Recommended Action:** Approve and file

**VII. STUDY SESSION**

**ITEM NO. 2     BACK BAY LANDING PCDP AND EIR (PA2011-216)**

**Site Location:** 300 E. Coast Highway

**Summary:**

The proposed project involves amendments to the General Plan and Coastal Land Use Plan to change the land use designations to a Mixed-Use Horizontal designation and a Planned Community Development Plan (PCDP) to establish appropriate zoning regulations and development standards. The requested approvals will provide for a horizontally distributed mix of uses, including recreational and marine commercial retail, marine office, marine services, enclosed dry stack boat storage, and a limited mix of freestanding multi-family residential and mixed-use structures with residential uses above the ground floor. In addition to the land use amendments, other requested approvals are a Lot Line Adjustment and Traffic Study pursuant to the City's Traffic Phasing Ordinance. Specific project design and site improvement approvals will be sought at a later time.

**Recommended Action:**

1. Review and discuss. No formal action required.

**VIII. NEW BUSINESS**

**ITEM NO. 3     LCP IMPLEMENTATION PLAN (PA2013-001)**

**Site Location:** City-wide

**Summary:**

An update on the Local Coastal Program (LCP) certification effort, including an overview of the Coastal Act and a progress report of the drafting of the LCP Implementation Plan.

**Recommended Action:**

1. Review and discuss. No formal action required.

**IX. STAFF AND COMMISSIONER ITEMS**

**ITEM NO. 4      MOTION FOR RECONSIDERATION**

**ITEM NO. 5      COMMUNITY DEVELOPMENT DIRECTOR'S REPORT**

**Committee Updates:**

1. Land Use Element Amendment Advisory Committee
2. General Plan/Local Coastal Program Implementation Committee

**ITEM NO. 6      ANNOUNCEMENTS ON MATTERS THAT THE PLANNING COMMISSION MEMBERS  
WOULD LIKE PLACED ON A FUTURE AGENDA FOR DISCUSSION, ACTION, OR  
REPORT**

**ITEM NO. 7      REQUESTS FOR EXCUSED ABSENCES**

**X. ADJOURNMENT**

## November 7, 2013, Planning Commission Agenda Comments

Comments by: Jim Mosher ( [jimmosher@yahoo.com](mailto:jimmosher@yahoo.com) ), 2210 Private Road, Newport Beach 92660 (949-548-6229).

### ***Item No. 1 Minutes of October 17, 2013***

The following minor corrections to the draft minutes are suggested:

Page 4, paragraph 3: “Jim Mosher expressed concerns that the current code has strong protections against the impact of facilities on public private as well as private public views. He referenced his written comments relative to the process for problematic applications and protecting private interests. He added that staff is supposed to receive visual simulations of projects and that the Commission City Council is supposed to consider the views from both public areas and private residences. He felt that the Commission should be able to deny a project based on obstruction of both public and private views.”

Page 4, paragraph 7: “Commissioner Brown noted concerns with setting precedence precedent with protecting private views.”

Page 5, paragraph 3: “He added that it is burdensome to perform and that wireless facilities provide emergencies emergency service providers with its frequency so that interference will not occur.”

**CITY OF NEWPORT BEACH PLANNING COMMISSION MINUTES**  
**Council Chambers – 100 Civic Center Drive**  
**Thursday, October 17, 2013**  
**REGULAR MEETING**  
**6:30 p.m.**

**I. CALL TO ORDER** - The meeting was called to order at 6:30 p.m.

**II. PLEDGE OF ALLEGIANCE** – Vice Chair Tucker

**III. ROLL CALL**

PRESENT: Ameri (arrived at 6:32 p.m.), Brown, Hillgren, Lawler, Myers, and Tucker

ABSENT:

EXCUSED: Kramer

Staff Present: Kimberly Brandt, Community Development Director; Leonie Mulvihill, Assistant City Attorney; Jim Campbell, Principal Planner; and Marlene Burns, Administrative Assistant

**IV. PUBLIC COMMENTS**

Chair Hillgren invited those interested in addressing the Planning Commission on non-agenda items to do so at this time. There was no response and Chair Hillgren closed public comments.

**V. REQUEST FOR CONTINUANCES** - None

**VI. CONSENT ITEMS**

**ITEM NO. 1 MINUTES OF OCTOBER 3, 2013**

**Recommended Action:** Approve and file

Chair Hillgren opened public comments. Seeing none, Chair Hillgren closed public comments.

Commissioner Ameri arrived at this juncture (6:32 p.m.).

**Motion** made by Commissioner Lawler and seconded by Commissioner Brown, carried (5 – 1) with Secretary Kramer absent to approve the minutes of October 3, 2013, as presented.

AYES: Ameri, Brown, Hillgren, Lawler, and Myers

NOES: None

ABSTENTIONS: Tucker

ABSENT: Kramer

**VII. STUDY SESSION**

**ITEM NO. 2 WIRELESS TELECOMMUNICATIONS FACILITIES ORDINANCE UPDATE (PA2012-057)**  
**Site Location: City-wide**

Principal Planner Jim Campbell provided background noting that the item was discussed at length at a previous meeting and that the Commission gave clear direction at that time. He addressed the potential allowance of wireless facilities and antennas in residential areas noting that presently they are not allowed in Single-Family and Two-Family neighborhoods, although they are allowed in the public right-of-way in low density neighborhoods. He added that some cities allow them, subject to a Conditional Use Permit, in residential zones. He noted that staff recommendations are to continue to prohibit them in the R1 and R2 zones.

In response to Chair Hillgren's inquiry Principal Planner Campbell added that staff feels that good coverage is provided for by allowing facilities in public rights-of-way and in surrounding areas so that they are not needed in private residential lots.

In reply to Commissioner Ameri's question regarding the City of Irvine, Principal Planner Campbell reported that telecom facilities are allowed in residential areas in Irvine by way of conditional use permits but that they have large setbacks so they are not typically found on single-family properties.

Commissioner Ameri commented on the need to be consistent with other cities throughout the County.

In response to Commissioner Brown's question regarding whether the owner of a property would be compensated for allowing wireless facilities on their property, Principal Planner Campbell reported that they would typically be compensated.

Vice Chair Tucker commented on the need for clarifying existing language and wondered if wireless facilities are prohibited on lettered lots. Principal Planner Campbell reported that they are currently allowed on lettered lots or common area lots.

Commissioner Ameri indicated that it would be up to the land owner to choose and stated he would rather leave it to the homeowner associations, homeowners, and residents of the community to decide whether they want a wireless facility or not, as long as the City maintains control over approval.

Chair Hillgren invited public comments on the issue of potentially allowing facilities on R-1 and R-2 lots.

Paul O'Boyle, Attorney representing Crown Castle, commented on a tiered process with small-cell facilities exceptions which are prominent throughout the State. From an industry standpoint, if antennas are not allowed in residential zones, they need to be covered by macro cell sites outside the zones. He noted that it does not pertain to just private property, but also the public right-of-way. He reported that his client works exclusive in the public right-of-way and as the ordinance stands presently, installations are allowed only in existing facilities. He listed nearby cities that allow wireless facilities in residential zones, by right and addressed the process used in the City of Costa Mesa.

Vice Chair Tucker stated that what is being suggested is not installing facilities on private homes.

Mr. O'Boyle stated that presently, wireless facilities on the public right-of-way are allowable under a CUP and that his client is requesting that it be allowed through an encroachment permit.

Assistant City Attorney Leonie Mulvihill clarified that the Commission is considering whether to allow or prohibit facilities on residential lots.

Mr. O'Boyle reported that telecommunications is a utility the same as electricity or water and that is the purpose of the public right-of-way.

Vice Chair Tucker stressed that what is presently being considered is allowing facilities on residential lots, not to be confused with the public right-of-way. He added that it may not be a good idea and that the Commission is not prohibiting them from being on the public right-of-way and is discussing directing staff to look at other refinements relative to allowing them on lettered lots.

Mr. O'Boyle stated that he is concerned about the public right-of-way and the way it is designed. He explained the tiered system and distinctions between macro systems and small-cell systems.

Dean Brown, representing the California Wireless Association, noted that there are special circumstances where wireless facilities have been located on R1 and R2 zones. He added that staff has built in flexibility by allowing them in homeowner association lettered lots but there have been challenges because of their by-laws. He added that the future involved small-cell sites which can be inconspicuous and that there is a lot of demand for installing them in residential areas.

Jim Mosher stated that the purpose of the matter is to correct existing deficiencies in the wireless code and stated that placing them in the public right-of-way may not be the best solution. He commented on his residential area and felt that homeowners would probably prefer to have a wireless facility installed in the nearby private park area (commonly-owned lot) but would probably not be allowed since the lot is zoned as R1.

Chair Hillgren closed public comments.

Vice Chair Tucker commented on the possibility of modifying the language for increased flexibility and make it inclusive enough where the facilities may be placed where coverage will be balanced.

Chair Hillgren noted that the goal is to provide coverage in an area that is lacking and where there are gaps in coverage. He added that conditions could allow a variance or permit opportunity to install them in those areas.

Principal Planner Campbell addressed collocation of cell sites including the current ordinance requirements. He added that as antennas get smaller, requiring collocation may not be practical. He reported that staff is recommending the possibility of eliminating that requirement and noted that Federal and State law encourage collocation and that is sufficient for the City's purposes.

Vice Chair Tucker stated that he accepts eliminating the collocation requirement.

Chair Hillgren invited public comments on the issue of collocation.

Dean Brown stated that the California Wireless Association supports staff's recommendation.

Chair Hillgren closed public comments.

Principal Planner Campbell addressed public view protection including prior direction from the Commission that if there is an important public view not identified by the General Plan, it should be afforded some level of protection through evaluation of the site. He stated that staff recommends broadening existing draft language to reflect the same and include other public views.

Vice Chair Tucker noted that there is a list of public view locations in the General Plan and stated there may be other views in the future. Direction was to include additional locations as identified in the future by the General Plan and Vice Chair Tucker suggested evaluating public views during the application process. As projects come in, there needs to be flexibility to evaluate public views that may not have been previously considered.

Principal Planner Campbell stated the intent to modify the language such as if there is a public view identified in the review process; it could be afforded the same level of protection as those views listed in the General Plan.

It was noted that if it is a General Plan view, whether now or in the future, it will be covered. The subject modification would relate to views not listed in the General Plan but identified in relation to specific applications.

Assistant City Attorney Mulvihill indicated that she will work with staff to develop appropriate language for the ordinance.

Chair Hillgren opened public comments related to public view protection.

Dean Brown asked if there will be a map identifying additional public views other than those identified by the General Plan.

Assistant City Attorney Mulvihill reiterated that she will work with staff to provide appropriate language reflecting the Commission's direction.

Paul O'Boyle recommended using the views identified in the General Plan and suggested adding a safety valve for other views as recommended by staff for specific plans and considered by the Commission.

Vice Chair Tucker noted that the views being considered are public views.

Jim Mosher expressed concerns that the current code has strong protections against the impact of facilities on public as well as private views. He referenced his written comments relative to the process for problematic applications and protecting private interests. He added that staff is supposed to receive visual simulations of projects and that the Commission is supposed to consider the views from both public areas and private residences. He felt that the Commission should be able to deny a project based on obstruction of both public and private views.

Chair Hillgren closed public comments.

Discussion followed regarding protecting public views and whether or not to protect private views.

Assistant City Attorney Mulvihill commented on a telecommunications facility project processed under the current ordinance and reported that Council considered whether or not to protect private views. She added that as the ordinance is being modified, it will be up to the Commission and Council whether or not to do so. She reported that staff is recommending not to protect private views in the future but rather to protect public views and expand on the latter. She stated that the City's tree maintenance policies consider private views but stated that it is difficult to enforce a code that would give each homeowner the ability to protect private views.

Commissioner Brown noted concerns with setting precedence with protecting private views.

Commissioner Ameri agreed that adding restrictive regulation regarding private views may not be the right thing to do, the public views need to be protected but that there should be a provision indicating that staff will consider private views during the application process.

Vice Chair Tucker commented on challenges with protecting private views.

Commissioner Ameri clarified his intent not to make it a part of the requirements but rather give consideration on a case-by-case basis.

Commissioner Myers stated that he believes that some kind of tiered application process to facilitate smaller antennas makes sense and that keeping them off of residences is important.

In response to Chair Hillgren's inquiry, Mr. Campbell reported that staff considers alternative placement through review of visual simulations.

In relation to height, Principal Planner Campbell addressed current height limits and recommended maintaining the existing height standards in the current code and that requests for increasing height would need to be through a Conditional Use Permit or a variance process for extraordinary needs.

Vice Chair Tucker stated that the findings will need to be considered, especially as they relate to CUPs and variances.

Commissioner Myers indicated support for staff's recommendations.

Chair Hillgren invited public comments regarding the height of facilities.

There were no comments from the public and Chair Hillgren closed public comments.

Mr. Campbell commented on the average telecom facility coverage and suggested the Community may desire "above average coverage". He recommended removing that language and Members of the Commission concurred.



In regard to the emergency communications review, Principal Planner Campbell reported that staff has contacted the Fire and Police Departments and they want to continue performing emergency communications reviews. Therefore, staff is recommending no changes to the standard.

Chair Hillgren invited public comments regarding emergency communications interference review.

Dean Brown provided a brief history and noted that modern technology is not in conflict with emergency communications and that the wireless industry does not think it necessary. He added that it is burdensome to perform and that wireless facilities provide emergencies with its frequency so that interference will not occur.

Director of Community Development Kimberly Brandt noted that the review does not add to the timeframe required for staff to complete its review. She did not feel it is a burdensome requirement as it only entails ensuring that frequencies are acceptable.

Dean Brown commented on the need to contact the Fire and Police Departments specifically.

Chair Hillgren closed public comments.

Principal Planner Campbell addressed modification of existing facilities noting that the proposed ordinance would establish a five (5%) percent threshold of change through an administrative zoning clearance process and stated that the industry is looking for a larger percentage for thresholds. He also reported that the Federal government has not established the definition for substantial alteration. He reiterated that staff is recommending a five (5%) percent threshold of alteration above which, discretionary permits would be required.

In response to Chair Hillgren's inquiry, Mr. Campbell stated that it would be five (5%) percent of any dimension.

Assistant City Attorney Mulvihill reported that it would be subject to change to comply with standards set by the Federal government, in the future.

It was suggested to add the word, "dimension" to clarify the five (5%) percent threshold and that the reference needs to be well-defined.

Mr. Campbell stated that Federal law requires minor modifications to be approved administratively by the City.

Assistant City Attorney Mulvihill added that the issue is subject to debate and that staff is carefully watching the Federal rule-making process.

Chair Hillgren invited public comments on the modification of existing facilities.

Jim Mosher stated that if companies have by right, the right to increase thresholds, it should be kept as low as possible.

Mr. O'Boyle stated that it is ten (10%) percent of the FCC's national guideline and that no matter what it is, if it exceeds an existing standard, it would need to go through the CUP process.

Assistant City Attorney Mulvihill stated that staff would like to do that since it would add another review to the process.

Chair Hillgren closed public comments.

Mr. Campbell reported that current regulations require operators prepare a radio frequency (RF) compliance report within a particular timeframe and that while the industry feels it is unnecessary, staff feels that it is important to document. He noted staff recommends keeping the existing standard.

Chair Hillgren invited public comments on the RF compliance report issue.

Mr. Brown stated that it is the FCC's responsibility to enforce radio frequency emissions. He added that as more cell sites are built, actual power levels have been reduced significantly. He reported that if any wireless provider broadcasts outside of the frequency, they can lose their license for the entire region as well as if they exceed FCC requirements. He felt this is another unnecessary step. He added they submit a standard report to the FCC only if it does not meet requirements for exclusion and that typically, staff is not qualified to review them, but must hire a consultant to do so.

Mr. O'Boyle stated that most small-cell facilities would operate at a fraction of what is required, that there are general standard reports that are produced and that site-specific reports are costly and are not necessary.

Paul Ridgely suggested that it would be prudent to ask for the specific documentation that has been suggested and noted the importance of municipalities ensuring compliance.

Jim Mosher agreed with industry experts that it would not be a useful exercise but stated it is a policy decision for consideration by Council since many residents express concerns regarding radio frequency emissions. Additionally, Mr. Mosher opined that the current ordinance is defective in terms of noticing requirements when applications are being made. He felt that the new one is better and indicated that the process would work better if the public is informed when an application is first being processed. He commented on previous cases where information provided at the beginning would have saved time in processing the application.

Dean Brown commented on the overall purpose statement of the ordinance and suggested acknowledgement should be given to the critical role wireless technology plays in the City.

Chair Hill closed public comments.

Vice Chair Tucker commented on the rationale for providing the RF reports.

Assistant City Attorney Mulvihill stated that because the City is precluded from evaluating or judging the appropriateness of facilities based on RF emissions, she noted that is what members of the public are concerned about so by requiring that facilities be in compliance with FCC guidelines, the City would have a responsibility to report to the public that everything possible has been done. She added that the City should know whether facilities are in compliance with FCC guidelines.

Director of Community Development Brandt reported that it is not uncommon through the building permit process to require documentation proving compliance. It is an ongoing requirement and is required thirty (30) days after installation of the telecommunications facility.

Chair Hillgren hoped that there would be a way to limit the amount of tests required.

Mr. Campbell reported that he will incorporate the comments made at this time and will develop a revised draft to present to the Commission, in its entirety at the November 21, 2013, meeting.

Vice Chair Tucker stated that it would be helpful to distribute the draft ordinance as soon as it is completed and review the same with industry experts before the meeting. Any Federal regulations made would need to be complied with.

## **VIII. STAFF AND COMMISSIONER ITEMS**

**ITEM NO. 3      MOTION FOR RECONSIDERATION - None**

**ITEM NO. 4      COMMUNITY DEVELOPMENT DIRECTOR'S REPORT**

### **Committee Updates:**

1. Land Use Element Amendment Advisory Committee

Director of Community Development Brandt reported that the Land Use Element Amendment Advisory Committee met on October 1, 2013, and concluded discussions and recommendations with the proposed changes to the Land Use Element map. Information on the proposals is available on the City's website and the next meeting will be on November 5, 2013.

2. General Plan/Local Coastal Program Implementation Committee

Director of Community Development Brandt reported that the General Plan/Local Coastal Program Implementation Committee met on September 25, 2013, and discussed potential amendments to the Coastal Zone boundaries as well as other policies. She reported an upcoming meeting on October 23, 2013, where it is anticipated that the California Coastal Commission Deputy Director will attend.

**ITEM NO. 5 ANNOUNCEMENTS ON MATTERS THAT THE PLANNING COMMISSION MEMBERS WOULD LIKE PLACED ON A FUTURE AGENDA FOR DISCUSSION, ACTION, OR REPORT - None**

**ITEM NO. 6 REQUESTS FOR EXCUSED ABSENCES**

Commissioners Brown and Myers requested excused absences for the Planning Commission meeting of November 7, 2013.

**IX. ADJOURNMENT**

There being no further business to come before the Planning Commission, the meeting was adjourned at 8:02 p.m.

The agenda for the Regular Meeting was posted on October 11, 2013, at 3:40 p.m., in the binder and on the City Hall Electronic Bulletin Board located in the entrance of the Council Chambers at 100 Civic Center Drive.

\_\_\_\_\_  
Bradley Hillgren, Chair

\_\_\_\_\_  
Kory Kramer, Secretary

Changes proposed by Commissioner Myers to paragraph 11, page four of the 10/17/13 Draft Minutes

Commissioner Myers stated that he believes that some kind of tiered application process to facilitate smaller antennas makes sense and that keeping them off of [single-family](#) residences, [as recommended by staff](#), is important.



**CITY OF NEWPORT BEACH  
COMMUNITY DEVELOPMENT DEPARTMENT  
PLANNING DIVISION  
100 CIVIC CENTER DRIVE  
NEWPORT BEACH, CA 92658-8915  
(949) 644-3209**

## Memorandum

To: Planning Commission  
From: Jaime Murillo, Senior Planner  
Date: November 1, 2013  
Cc: Brenda Wisneski, James Campbell, Leonie Mulvihill, and Tony Brine  
Re: Back Bay Landing PCDP and EIR (PA2011-216)

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The following two documents are being forwarded to you in advance of the November 7, 2013, Planning Commission Study Session to provide you with an opportunity to preview the project and to begin reviewing the Draft Environmental Impact Report for compliance with the California Environmental Quality Act (CEQA). The documents can also be accessed online at: <http://www.newportbeachca.gov/ceqadocuments>.

### Draft Back Bay Landing Planned Community Development Plan (PCDP)

The purpose of the PCDP is to establish appropriate zoning regulations governing land use and development of the project site. The PCDP provides a vision for the land uses on the site, and sets the development standards and design guidelines for specific project approvals for the future Site Development Review process. The PCDP also regulates the long term operation of the developed site.

### Draft Environmental Impact Report (EIR)

The Draft EIR analyzes potential environmental impacts resulting from a future project developed consistent with the development limits, standards, and guidelines established in Draft PCDP and required public improvements. The Draft EIR was released for a mandatory 45-day public review period that began on October 4, 2013, and concludes on November 18, 2013. Responses to comments will be included with the project staff report to be distributed in advance of the anticipated December 19, 2013, Planning Commission meeting.

**Please keep these documents for the December 19, 2013, meeting.**

# BACK BAY LANDING PROJECT

## Planning Commission Study Session



November 7, 2013



# PURPOSE OF MEETING

- Project preview to facilitate Planning Commission review of the documents in advance of public hearings
- Provide status of the Draft EIR
- Answer questions



# PROPOSED PROJECT

- The Back Bay Landing project involves two stages of approvals:
  1. Legislative Approvals (e.g., General Plan Amendment, Coastal Land Use Plan Amendment, Planned Community Development Plan), which comprise the current “proposed project”; and
  2. Administrative Approvals (e.g., Site Development Review, Coastal Development Permit), which will be pursued at a later date for a future development on the project site.

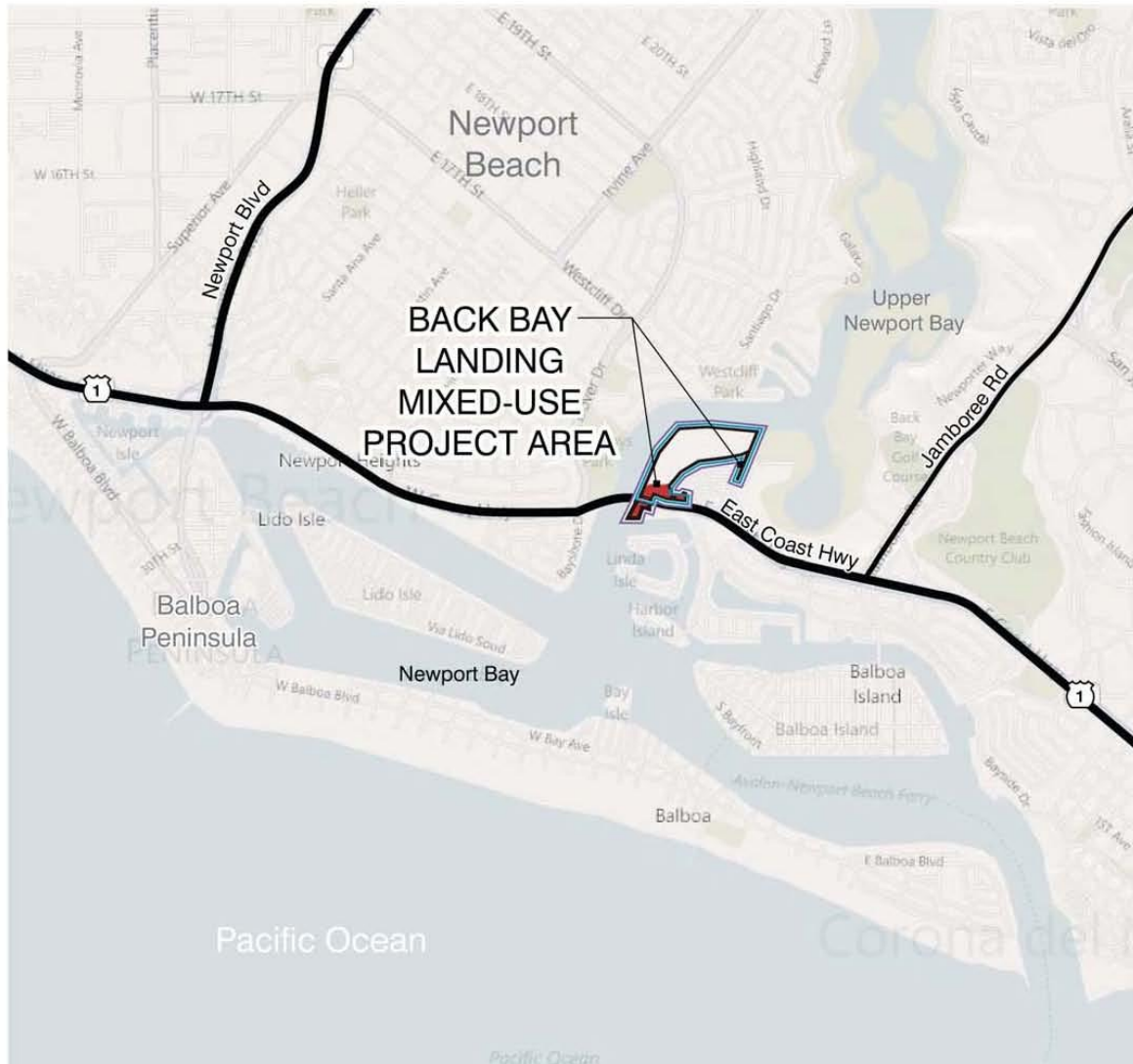




# PROPOSED PROJECT

While only Legislative Approvals are currently being sought, the EIR will evaluate impacts of the currently proposed Legislative Approvals, as well as those of the future development project to the extent feasible.



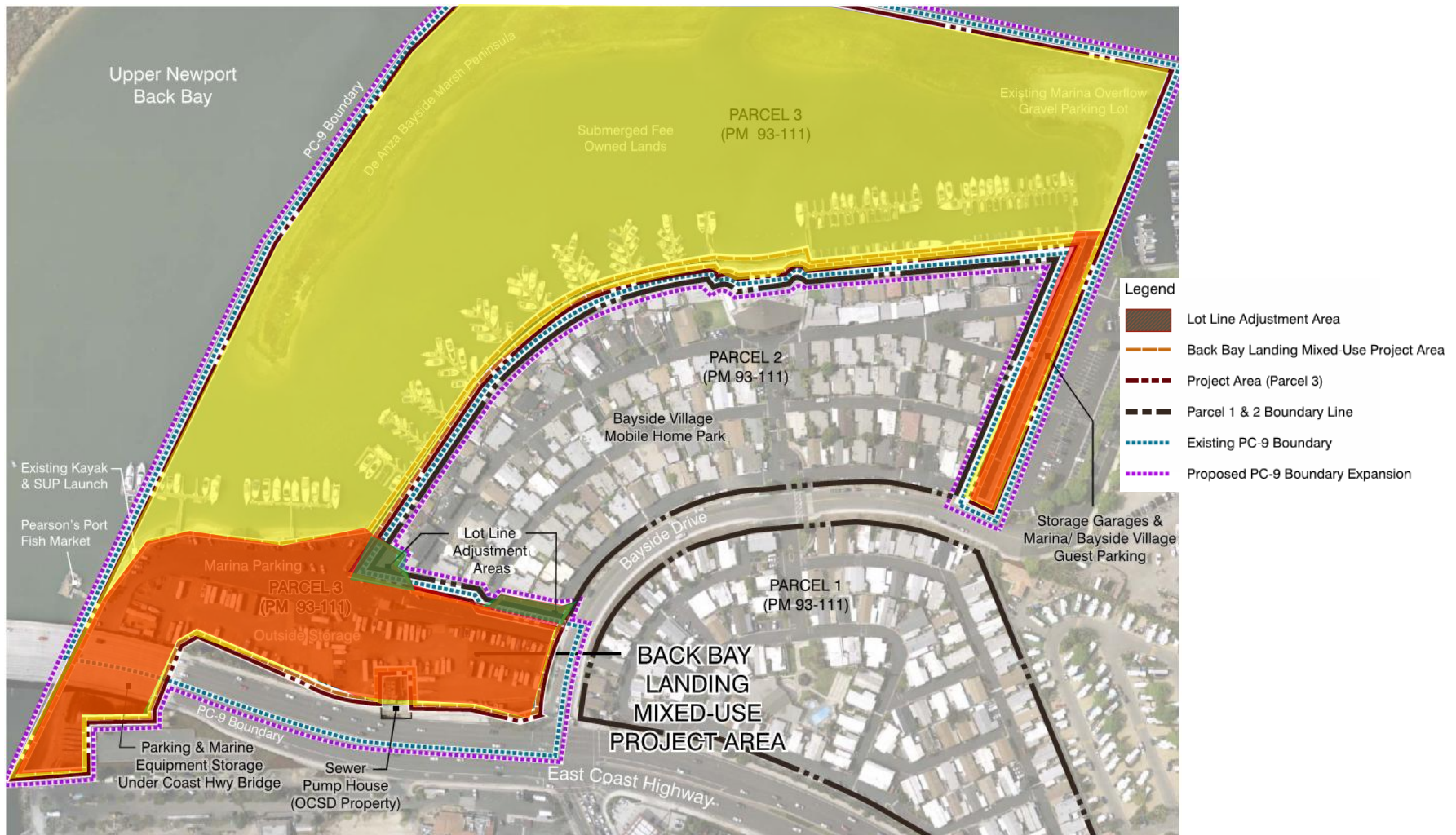


Back Bay Landing is located immediately north east of East Coast Highway in Newport Beach, California. The site is bounded by East Coast Highway and Newport Harbor on the south and west, Bayside Drive to the south, the Newport Back Bay channel to the west and Bayside Village Mobile Home Park to the southeast.

#### Legend

- Project Area (Parcel 3 of PM 93-111)
- Back Bay Landing Mixed-Use Project Area
- Existing PC-9 Boundary
- Proposed PC-9 Boundary Expansion





Source: Google Earth

# EXISTING CONDITION, PROJECT BOUNDARY & LOT LINE ADJUSTMENT



N.T.S.  
8-30-2013



# PROPOSED PROJECT

- Legislative Approvals currently being requested:
  - General Plan Amendment (GPA)
  - Coastal Land Use Plan (CLUP) Amendment
  - PC-9 Amendment (Zone Change)
  - Planned Community Development Plan (PCDP)
  - Lot Line Adjustment (LLA)
  - Traffic Study





General Plan	Coastal Land Use Plan	Zoning
Existing & Proposed Land Use Designations	Existing & Proposed Land Use Designations	Existing & Proposed Zoning Designation
Changes: CM 0.3 no change, CM 0.5 & RM changed to MU-H1	Changes: CM 0.3 no change, CM-B 0.5 FAR & RM-C changed to MU-H	Changes: PC-9 boundary extended to include (PC-1 MHP) LLA & project area south of CH centerline
Existing	Existing	Existing
Proposed	Proposed	Proposed

**Anomaly** 80  
Nonresidential

Only  
 131,290 SF

Mixed-Use  
 171,289 SF  
 1:1 ratio  
 49 units

**Anomaly** 81  
 296 units

Source: Templeton Planning Group

# EXISTING & PROPOSED LAND USE DESIGNATIONS & REQUESTED ENTITLEMENTS

N.T.S.  
 8-30-2013



# Planned Community Development Plan

## Purpose

- establish zoning regulations governing land use and development of the site
- provides a vision for land uses on the site and establish design guidelines
- regulates long-term operation of the site



# Planned Community Development Plan

## Permitted Uses

- marine-related (e.g. enclosed dry-stack boat storage, marina, boat sales, boat rentals, boat service, kayak and paddleboard rentals, etc.)
- visitor-serving commercial and recreational uses (e.g. retail, restaurant, personal services, office, etc.)
- residential (vertical mixed-use and freestanding)

## Development Standards

- Setbacks, Building Heights, Residential, Parking, Landscaping, Bulkhead, Dredging, Public Bayfront Promenade and Trail, Vehicular Circulation, Lighting, Signage, Utilities, Sustainability, Public Improvements



# Planned Community Development Plan

## Design Guidelines

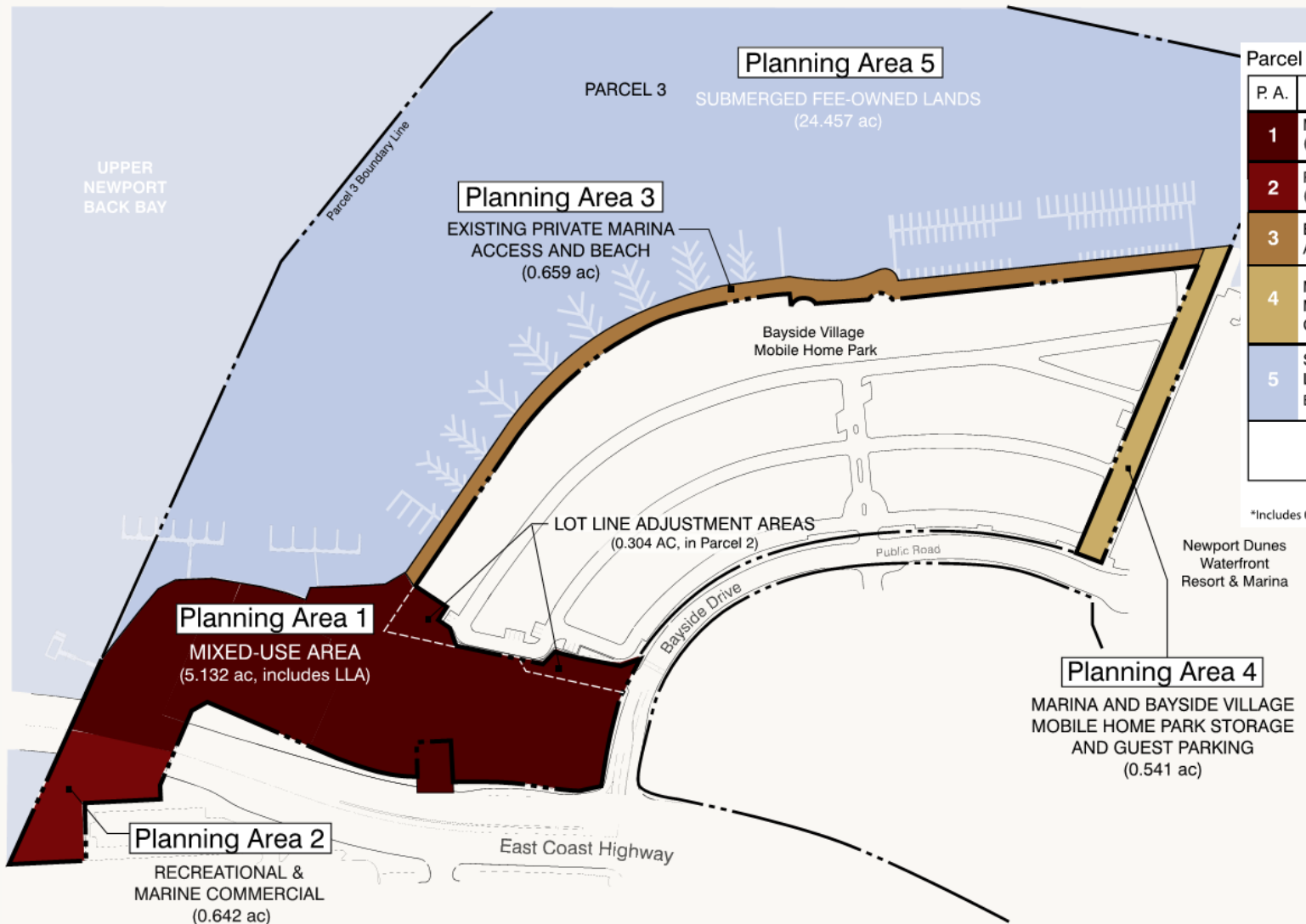
- Architectural Theme, Site Planning, Building Massing, Façade Treatments, Public Views, Parking Structure, Public Spaces, Landscaping, Hardscape, and Signs

## Implementation

- Site Development Review- Planning Commission Public Hearing
- Ensure future development is fully consistent with General Plan, Coastal Land Use Plan, and Back Bay Landing Planned Community Development Plan, including design guidelines.







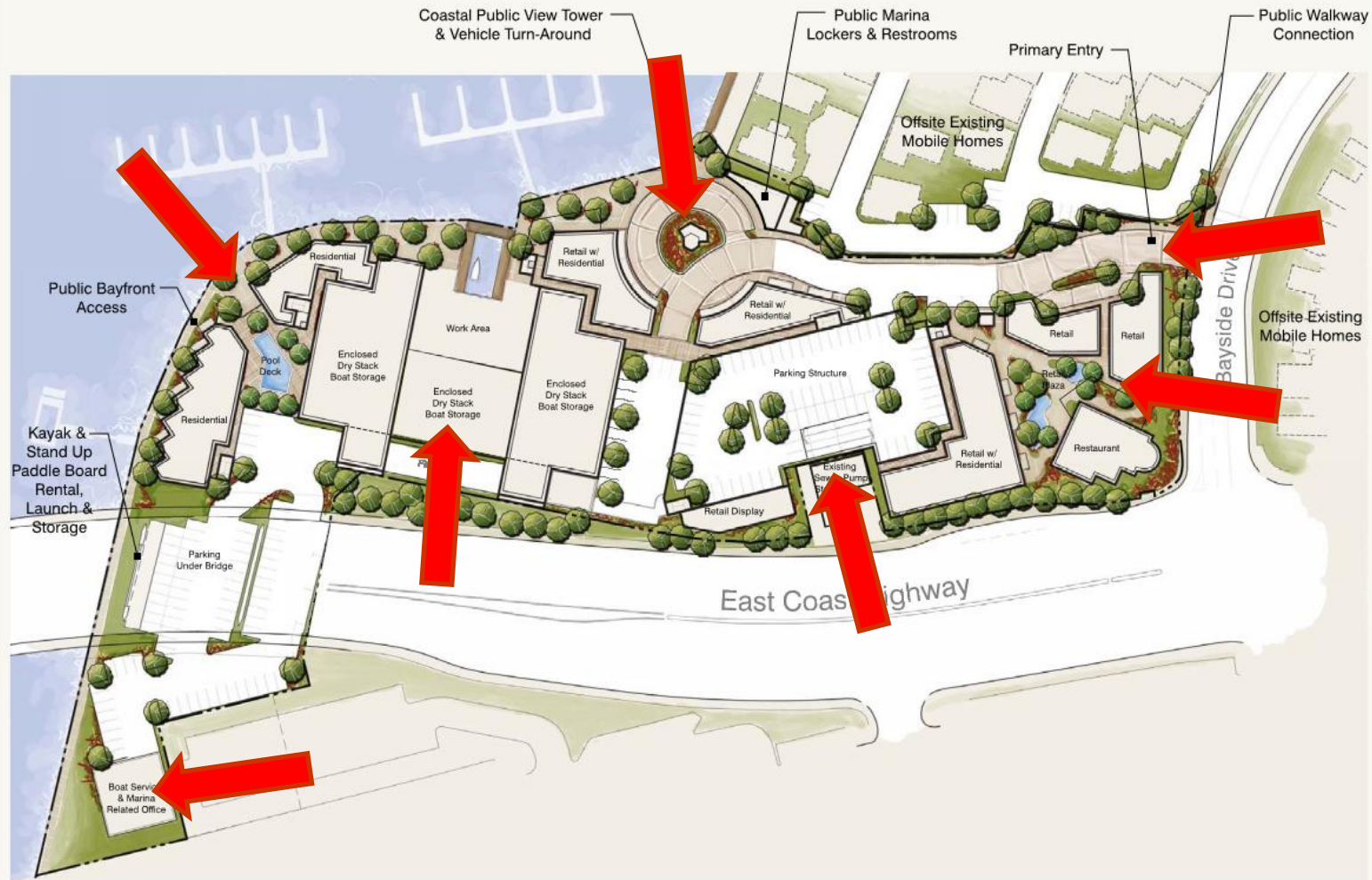
Parcel 3 Summary

P. A.	Description	Acres
1	Mixed-Use Area* (North of CH centerline)	5.132 ac
2	Recreational & Marine Commercial (South of CH centerline)	0.642 ac
3	Existing Private Marina Access and Beach	0.659 ac
4	Marina and Bayside Village Mobile Home Park Storage and Guest Parking	0.541 ac
5	Submerged Fee-Owned Lands (Area includes De Anza Bayside Marsh Peninsula)	24.457 ac
Parcel 3 Total Area*		31.431 ac

\*Includes 0.304 ac LLA from Parcel 2

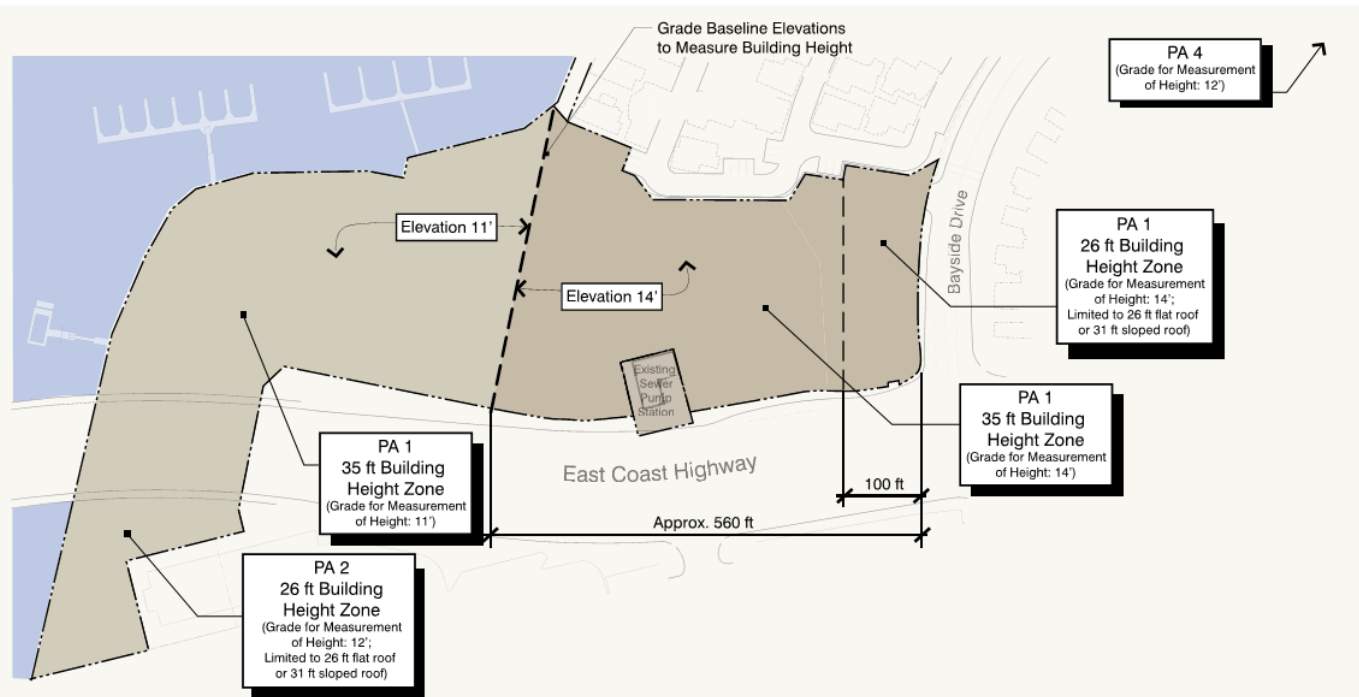
# Planning Areas





# Conceptual Site Plan





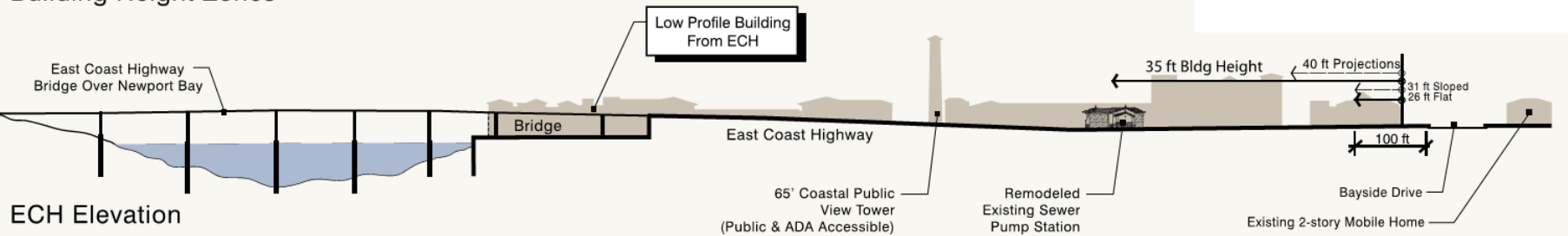
Building Height Zones

## EXHIBIT 3 BUILDING HEIGHTS

### DESIGN GUIDELINES

East Coast Highway is approximately 22 feet above the Back Bay Landing development site limiting the development's impact on views from East Coast Highway.

There are three finished grade baseline elevations indicated on the exhibit from which the building heights are measured: 11, 12, or 14 feet.



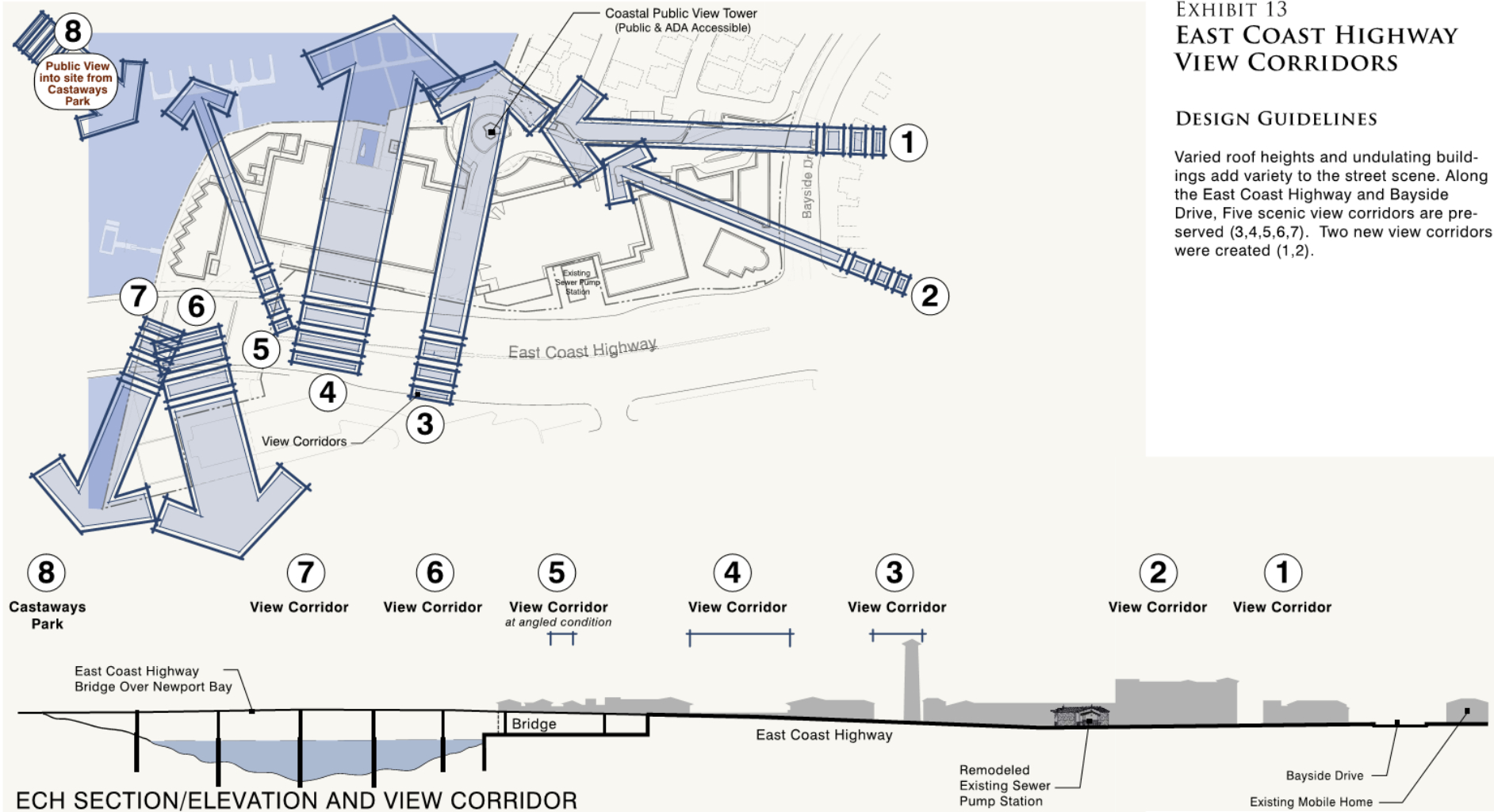
# Building Heights



## EXHIBIT 13 EAST COAST HIGHWAY VIEW CORRIDORS

### DESIGN GUIDELINES

Varied roof heights and undulating buildings add variety to the street scene. Along the East Coast Highway and Bayside Drive, five scenic view corridors are preserved (3,4,5,6,7). Two new view corridors were created (1,2).



# View Corridors







East Coast Highway and Bayside Drive



Coastal Public View Tower



Public Bayfront Promenade



Visitor-Serving Commercial



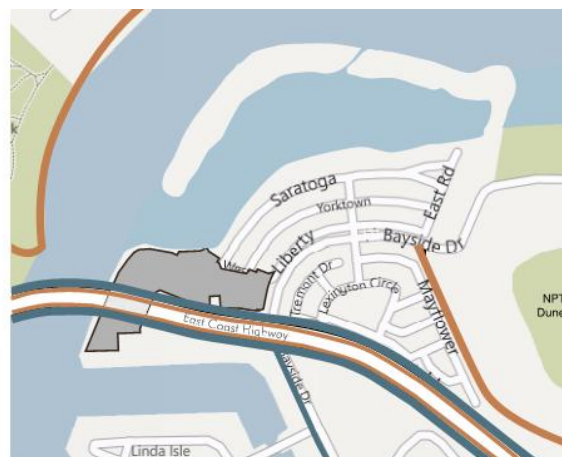
View from Bridge along East Coast Highway

# Coastal Mediterranean Theme





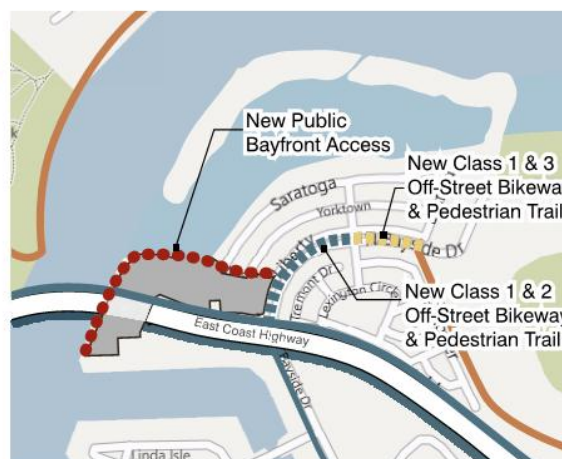
1. Regional Trail Connections



3. Current Lack of Trail Connection



2. Proposed Coastal Access



4. Critical Trail Connections

## COASTAL ACCESS AND REGIONAL TRAIL CONNECTIONS

Back Bay Landing provides coastal access and a critical link between existing regional trails.

1. Regional Trail Connections
2. Proposed Coastal Access
3. Current Lack of Trail Connection
4. Critical Trail Connections

### Legend

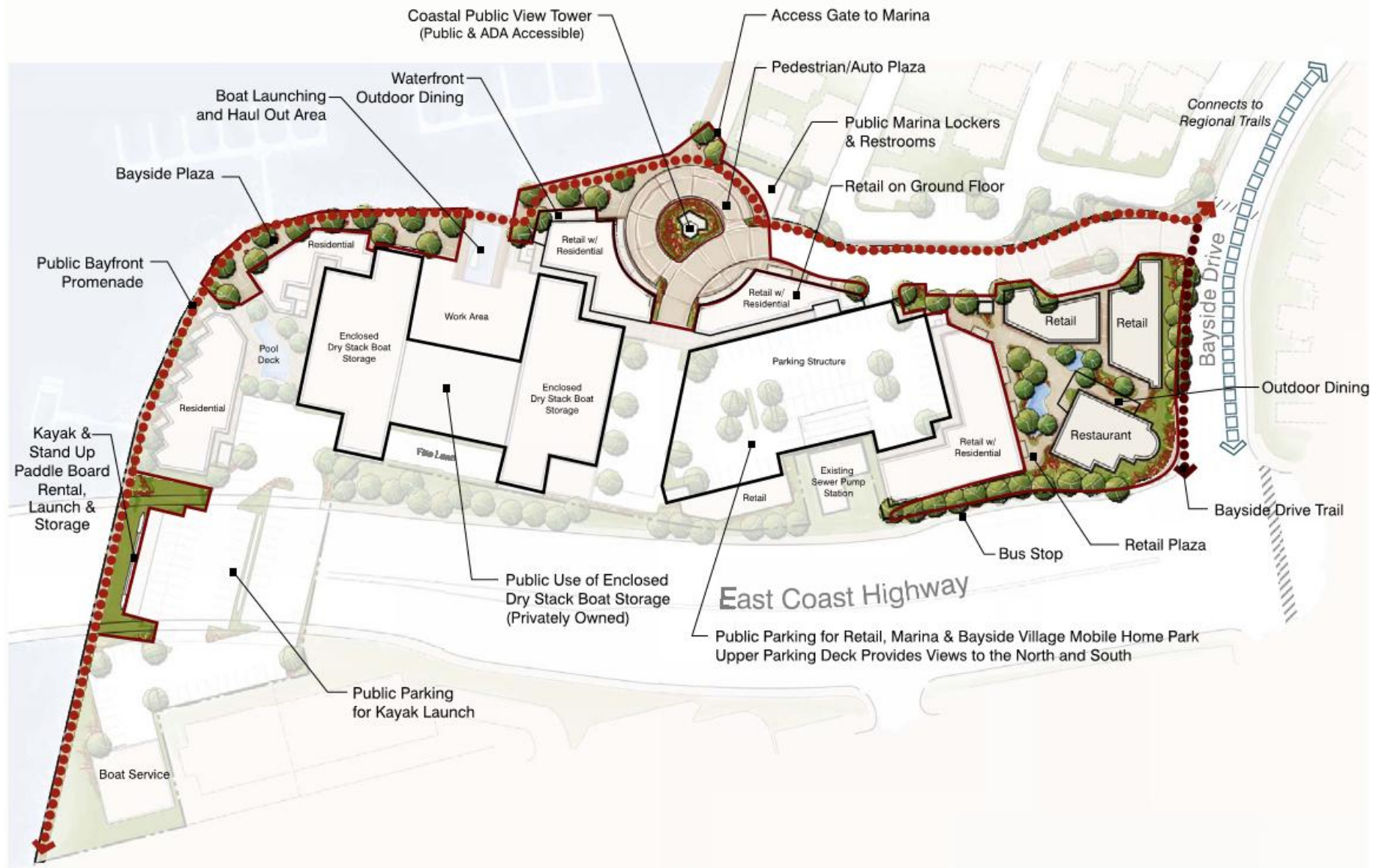
#### Trail Types

- New Public Bayfront Access Accessible to Pedestrians & Cyclists
- ■ ■ ■ New Class 1 & 2 Off-Street Bikeway & Pedestrian Trail
- ■ ■ ■ New Class 1 & 3 Off-Street Bikeway & Pedestrian Trail
- Existing Class 1 Trail
- Existing Class 2 Trail
- Existing Class 3 Trail
- Lateral Access
- Vertical Access
- ▲ Public Beach Access Location
- ✱ Public View Point

# Public Access and Trail





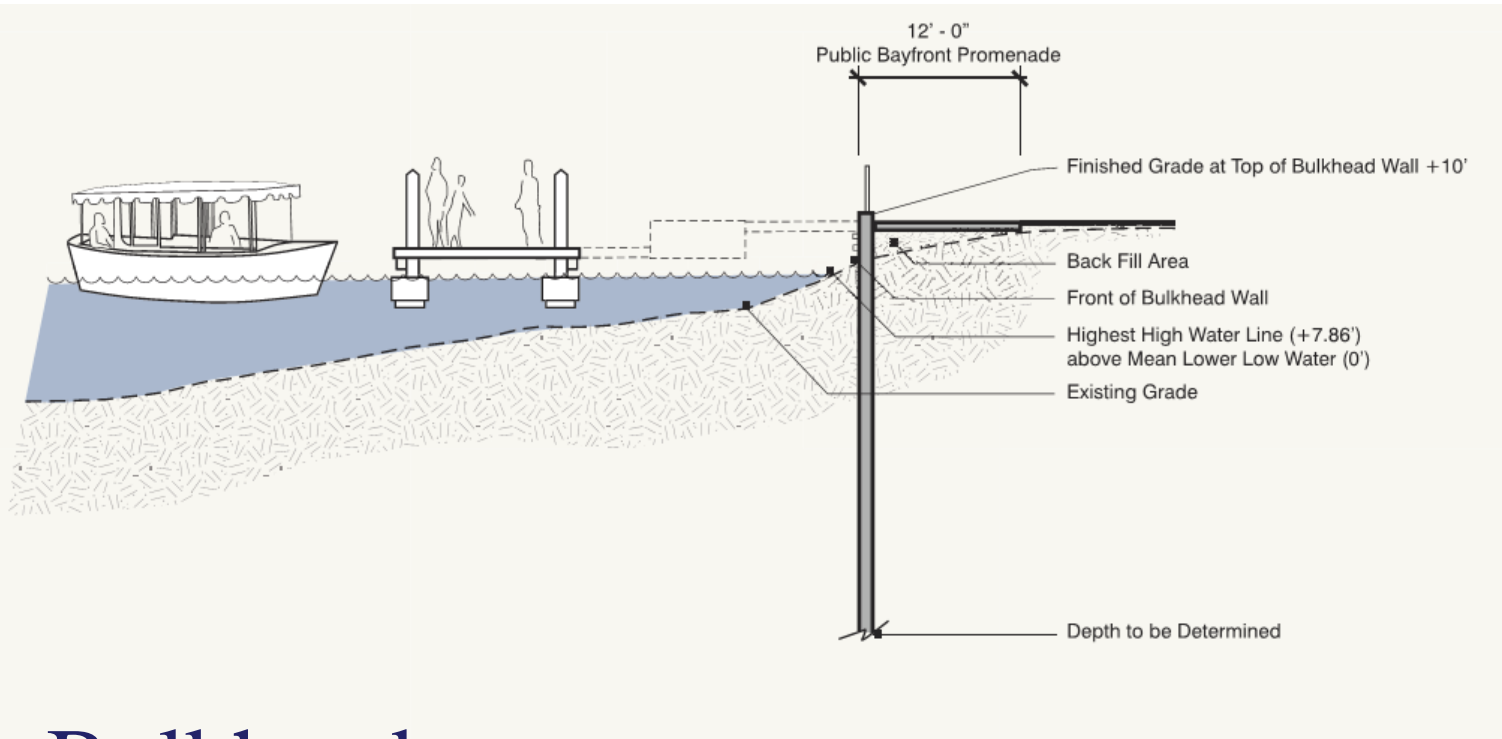


# Public Spaces



## Bulkhead

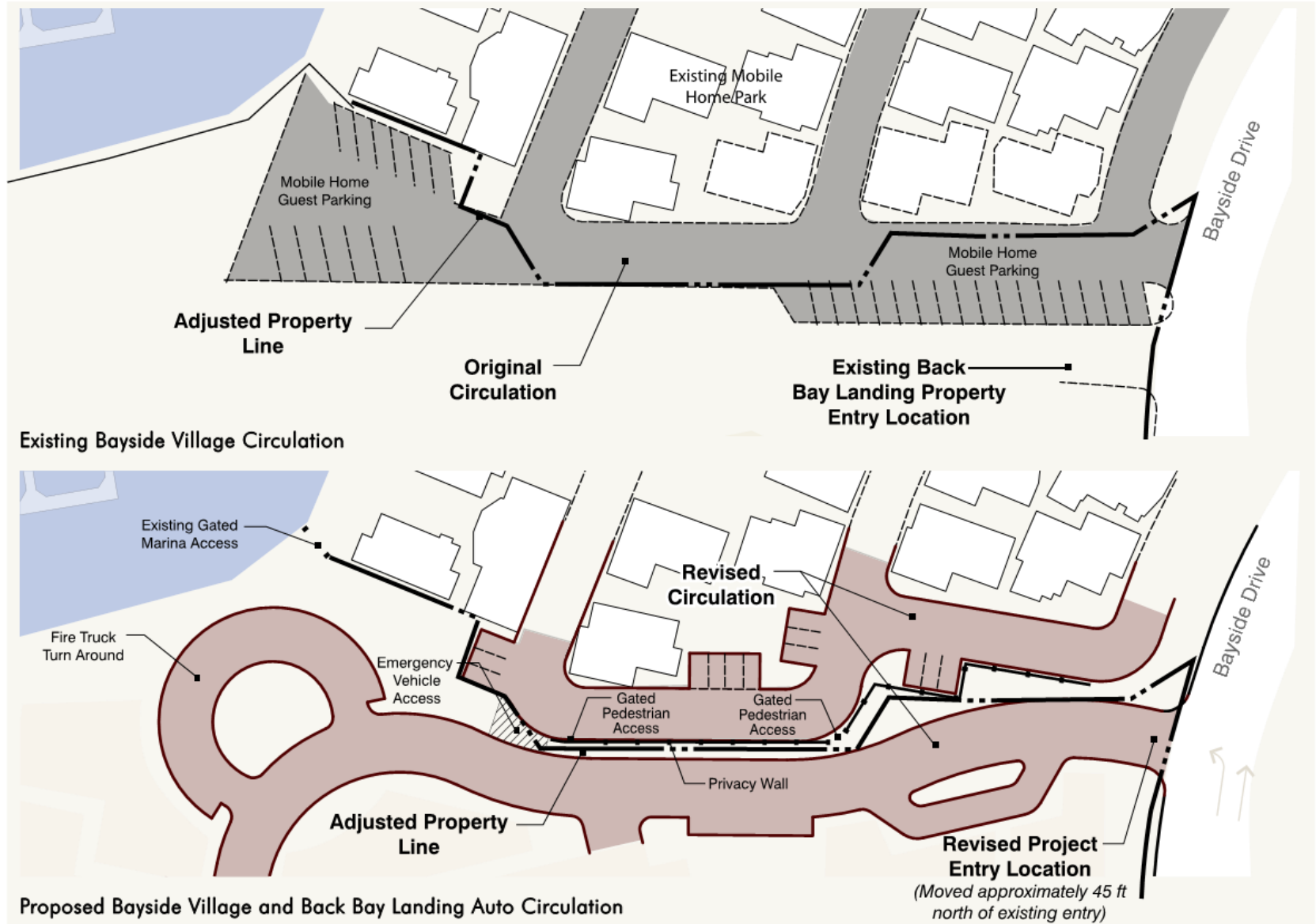
The project bulkhead may be built to the Highest High Water elevation of 7.86' relative to Mean Lower Low Water (0.0') or 7.48'/NAVD 88 to preserve the natural profile along the shoreline adjacent to the County Tidelands, subject to consistency findings in the Coastal Act and City of Newport Beach Coastal Land Use Policies.



# Bulkhead

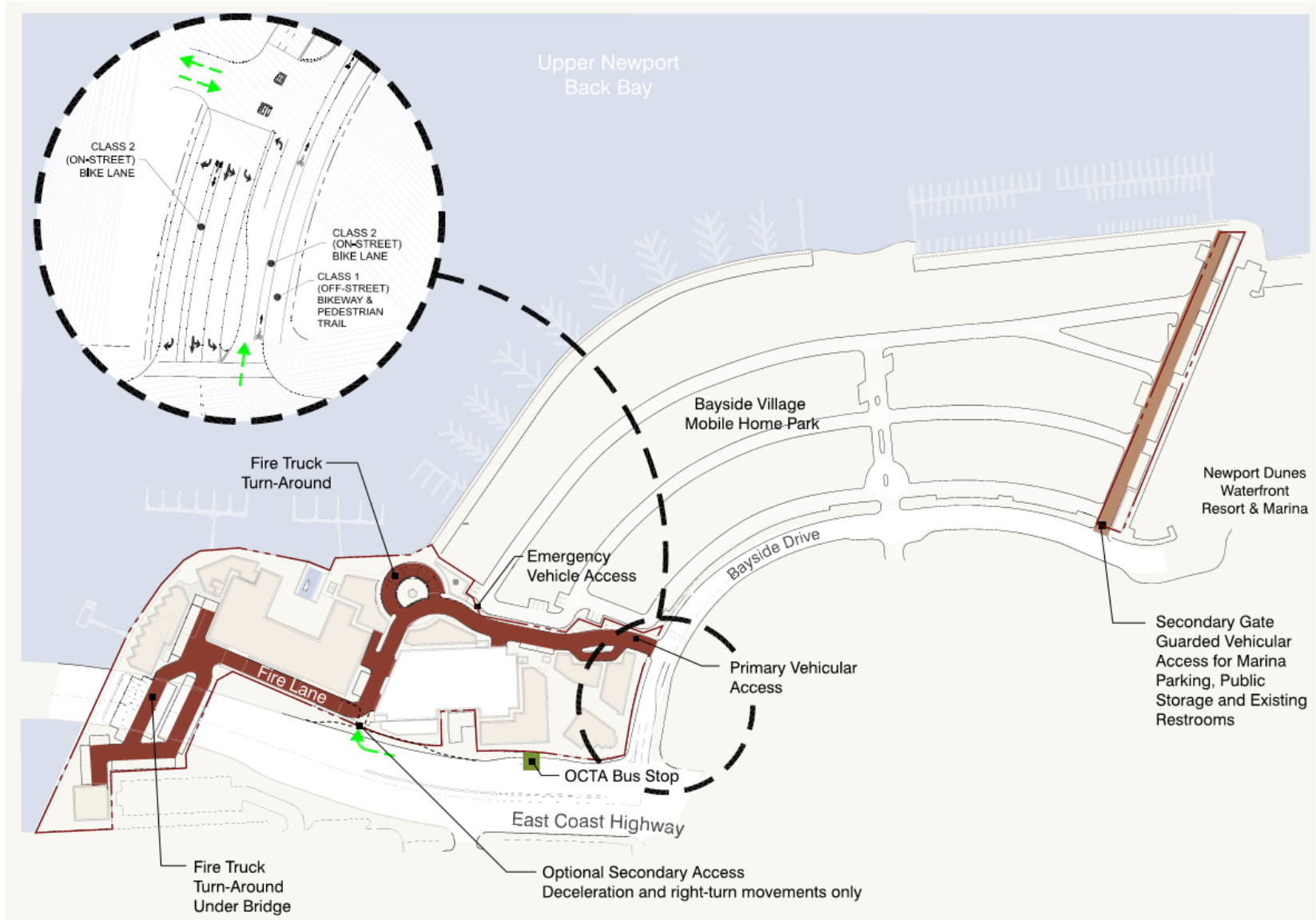






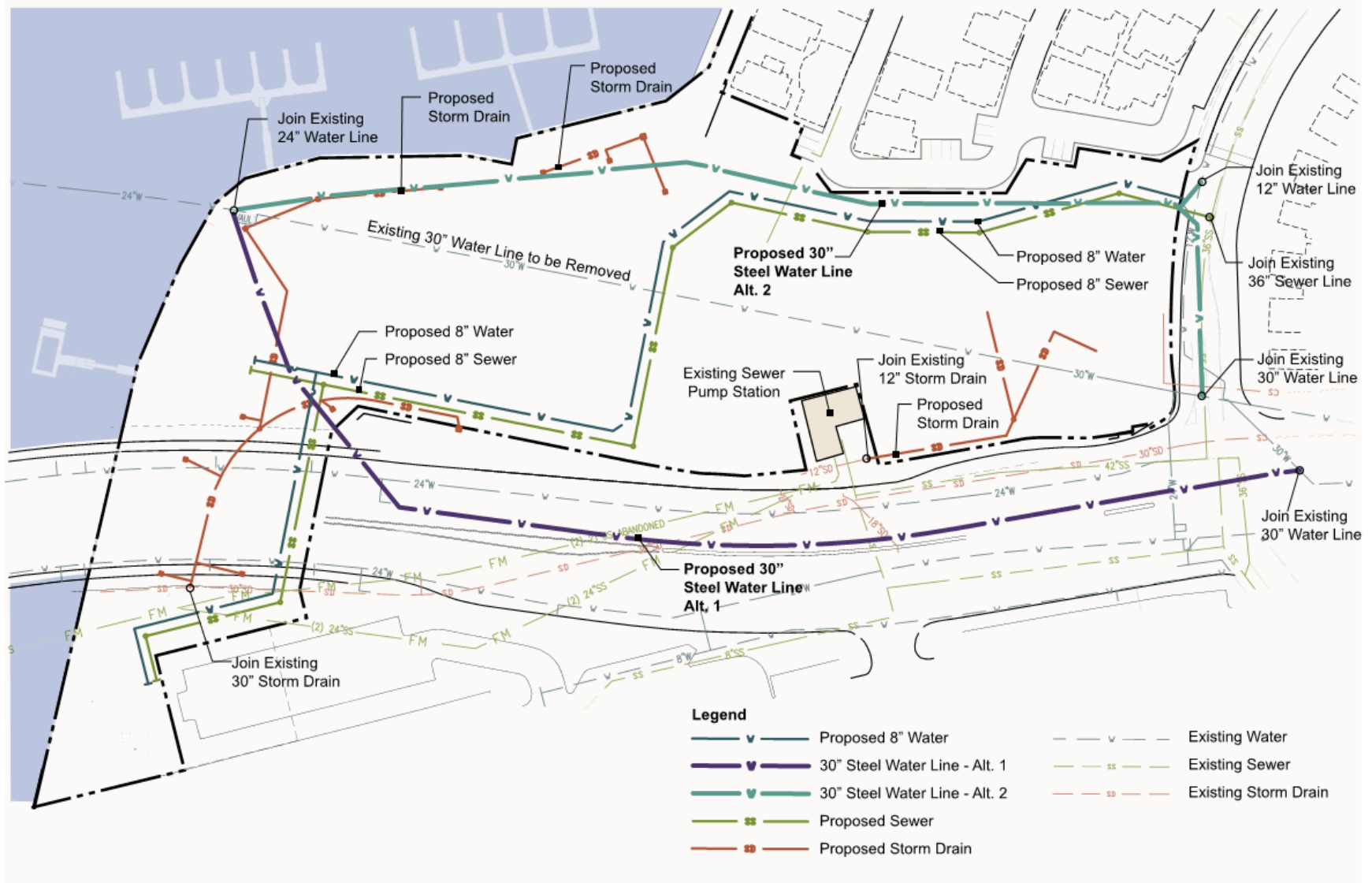
# Relocated Driveway/Lot Line Adj.





# Street Improvements





# Utility Improvements



# ENVIRONMENTAL IMPACT REPORT

- The Draft EIR analyzes potential environmental impacts resulting from a future project developed consistent with the development limits, standards, and guidelines established in Draft PCDP and required public improvements.
- **45-day public review period –**  
October 4, 2013 to November 18, 2013
- Responses to comments to be provided with December 19, 2013, Planning Commission agenda packet



# ENVIRONMENTAL ISSUES TO BE ANALYZED IN THE EIR

- Aesthetics
- Air Quality
- Biological Resources
- Cultural Resources (Archaeology, Paleontology, and Historic Resources)
- Geology/Soils
- Greenhouse Gas Emissions
- Hazards/Hazardous Materials
- Hydrology/Water Quality
- Land Use/Planning
- Noise
- Population/Housing
- Public Services (Fire, Police, Schools, Libraries, Parks)
- Recreation
- Transportation/Traffic
- Utilities and Services Systems (Water, Sewer, Solid Waste)
- Project Alternatives
- Growth Inducement



# Maximum Development Scenario

## Maximum Development Scenario

### North of East Coast Highway Centerline (PA 1 and 4)

Retail/Marine Sales and Repair	32,859 square feet
Quality Restaurant	4,100 square feet
High-Turnover Restaurant	3,500 square feet
Office	8,685 square feet
Enclosed Dry-Stack Boat Storage	32,500 square feet (up to 140 spaces)
Storage Area (resident and boat lockers)	4,000 square feet

*Non-Residential Total North of East Coast Highway Centerline: 85,644 square feet*

*Residential Total North of East Coast Highway Centerline: 85,644 square feet (up to 49 units)*

### South of East Coast Highway Centerline (PA 2)

Non-residential (marine services, office)	8,390 square feet
Project Site Total	179,678 square feet
Marina (existing)	220 wet slips







### **Next Steps:**

- Harbor Commission- Nov. 13, 2013
- Planning Commission Public Hearing – Dec. 19, 2013

For more information contact:

Jaime Murillo, Senior Planner  
949-644-3209

[jmurillo@newportbeachca.gov](mailto:jmurillo@newportbeachca.gov)



# Local Coastal Program

Planning Commission  
November 7, 2013





# Background



- Coastal Zone Management Act (1972)
- Proposition 20 (1972)
- Coastal Act (1976)
- Newport Beach LCP Certification
  - First Land Use Plan certified (1982)
  - Land Use Plan updated (1990)
  - Second Land Use Plan (CLUP) certified (2005)
  - CLUP updated (2009)

# Coastal Act



## ■ California Coastal Commission

- 12 voting members
- 4 ea. Governor, Senate Rules Committee, & Speaker of the Assembly
- 6 locally-elected officials, 6 public at-large
- (3 non-voting ex officio members)

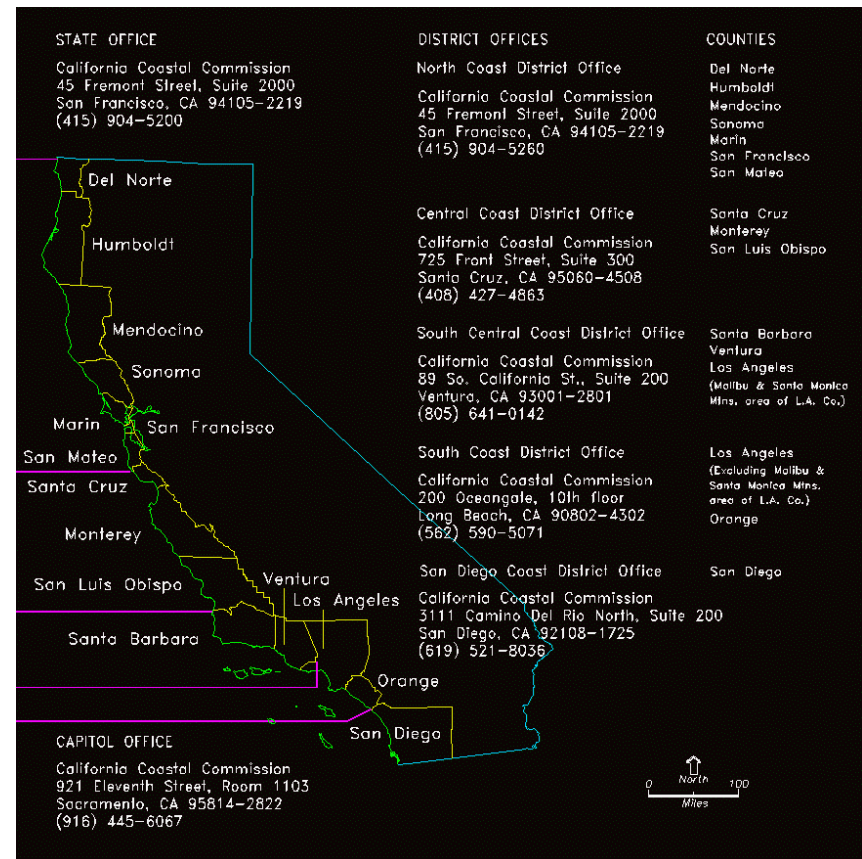
## ■ Goals

- Protect, maintain and enhance natural and artificial coastal resources
- Balance utilization and conservation of coastal resources
- Maximize public access and recreational opportunities
- Priority for coastal-dependent and coastal-related development

# CCC Administration



- Executive Director
  - Dr. Charles Lester
- South Coast District
  - Deputy Director for OC
    - Sherilyn Sarb
  - District Manager
    - Teresa Henry
  - OC Area Supervisor
    - Karl Schwing



# Coastal Zone



## ■ Land

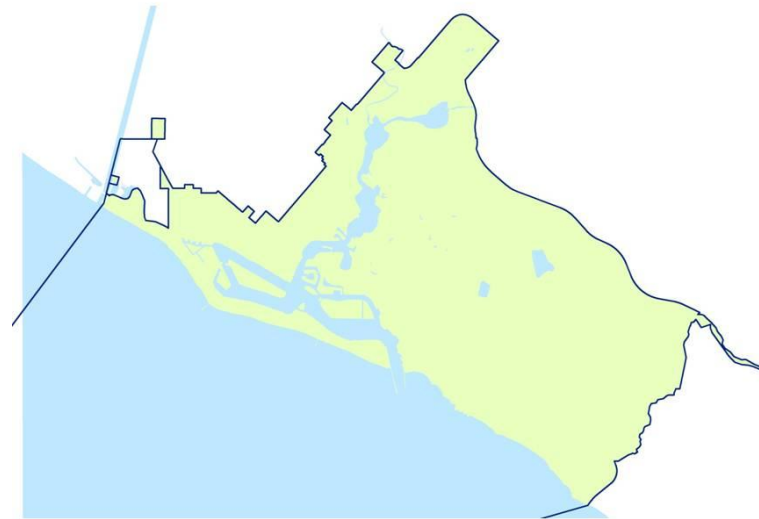
- 23.6 square miles in the City
- 12.5 sq. mi. in coastal zone
- 53/47 split

## ■ Water

- 23 square miles of ocean
- 1.25 square miles of bay
- 1.25 square miles of harbor
- 45 miles of shoreline

## ■ Development

- 21,300 dwelling units
- 4.7 million sq. ft. non-residential
- 2,699 hotel rooms



# Coastal Development Permits

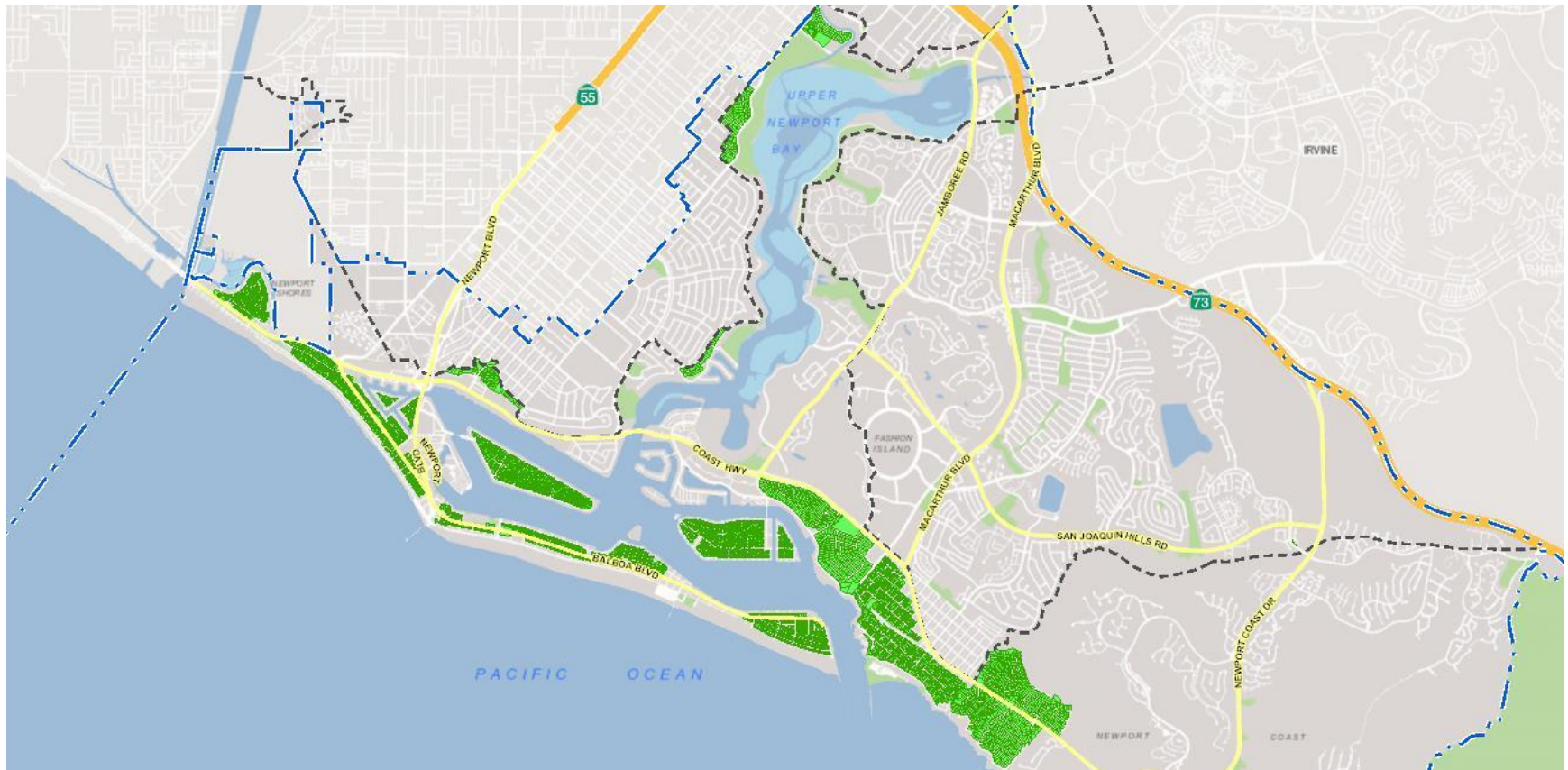


- **Definition of Development**
  - Erection of structures
  - Discharge/disposal of materials
  - Changes in density/intensity of land use
  - Subdivisions
  - Changes in intensity of and access to water
  - Construction, reconstruction, additions, demolition
  - Removal of vegetation
- **Approximately 70 AICs issued per year**
- **Exemptions**
  - Existing single family dwellings - “10% Rule” (floor area, height, building bulk)
  - Repair & maintenance
  - Temporary events (subject to CCC guidelines)
- **Categorical Exemptions**



- Categorical Exclusion Order
  - Adopted in 1977
  - Excludes one-unit and two-unit projects
    - Does not include first row of lots on the shoreline
    - Does not include Bay Shores Community
    - Max 1.5 FAR
    - Must conform to Zoning Code standards (c. 1977)
  - About 30-50 CEOs issued each year

# Cat Ex Map



# Post Certification



- CDP authority is delegated to the City
- CCC retains permit authority in certain specified areas
- CCC serves as an appellate authority in specified areas



# Post Certification

## CCC Permit Authority



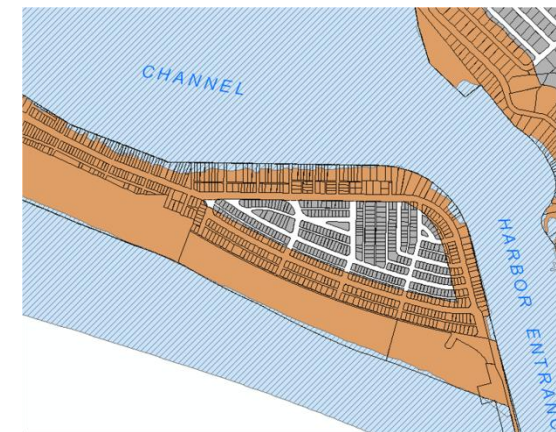
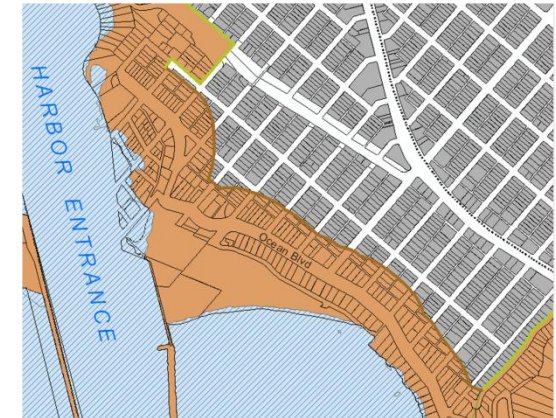
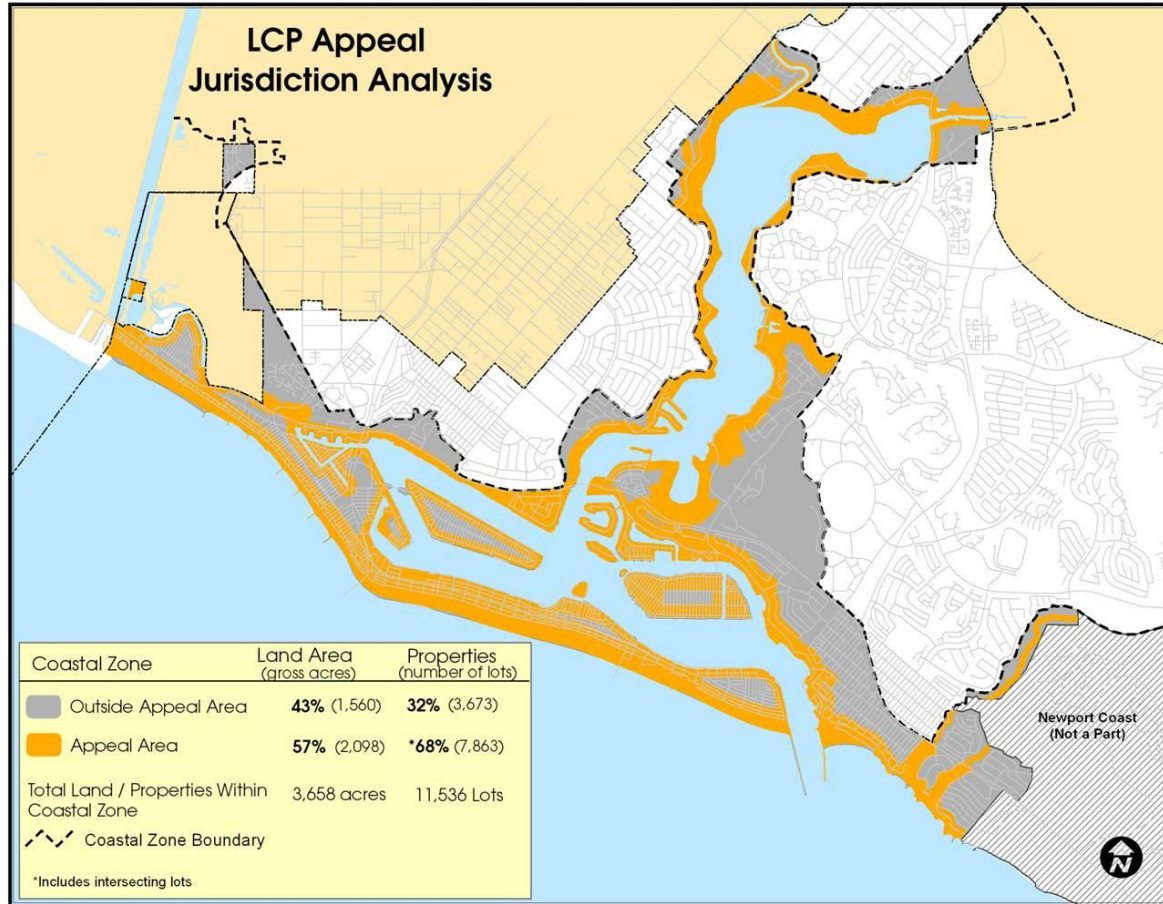
- Original Jurisdiction Areas
  - Submerged lands (below MLT line)
  - Tidelands (between MHT and MLT lines)
  - Other public trust lands (historic tidelands)\*
    - Newport Dunes
    - Balboa Bay Club
    - Beacon Bay
    - Marina Park
- Deferred Certification Areas
  - Newport Banning Ranch

# Post Certification Appeal Areas



- Lands between the sea and the designated first public road paralleling the sea
- 300 feet from inland extent of any beach or of the MHT line, whichever is greater
- 100 feet of streams and wetlands
- 300 feet of top of seaward face of coastal bluffs

# Appeal Areas

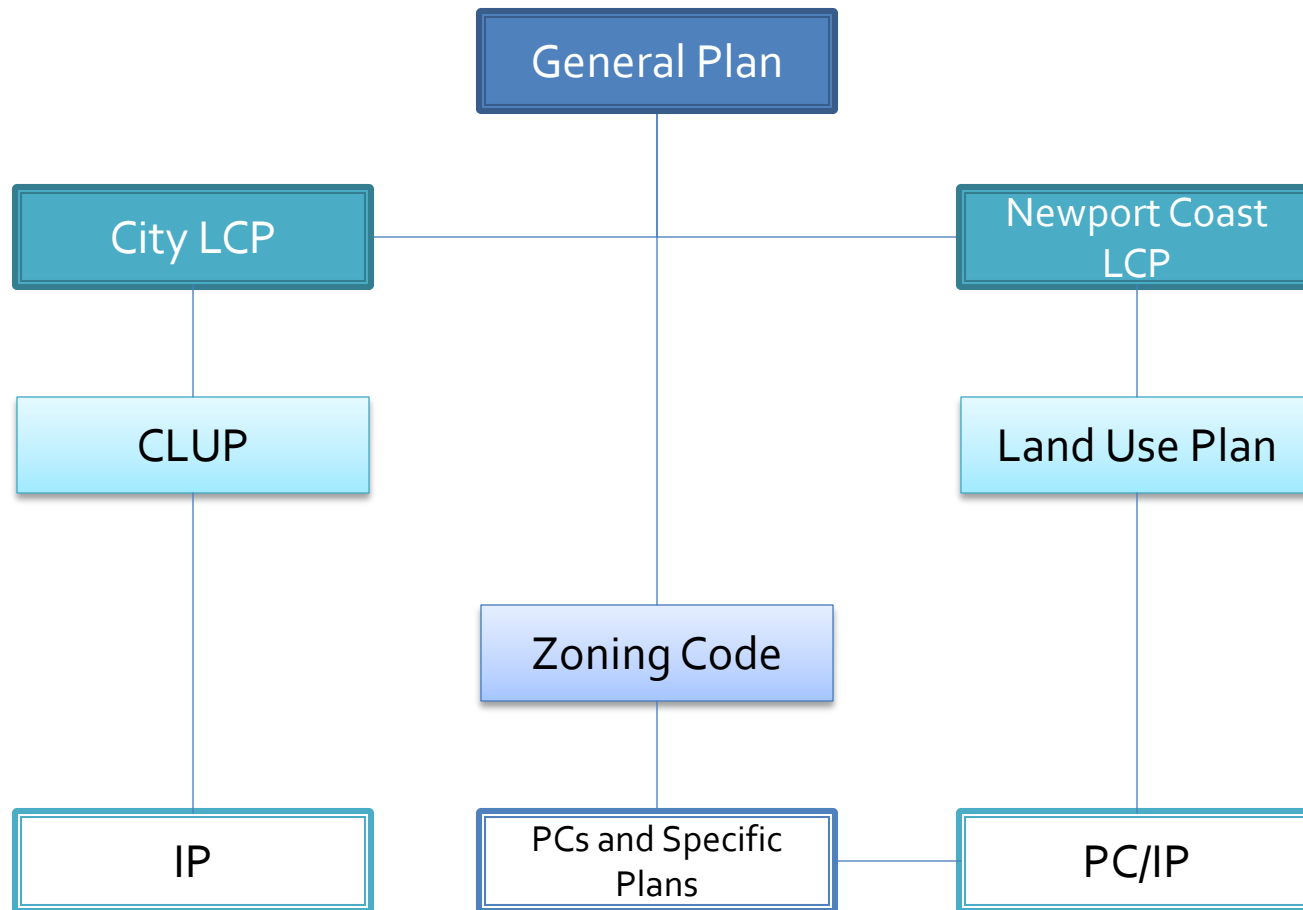


# Implementation Plan

Planning Commission  
November 7, 2013



# Organization



# IP Format



## Chapter 21.20 – Commercial Coastal Zoning Districts (CC, CG, CM, CN, CV, OG)

### Sections:

21.20.010	Purposes of Commercial Coastal Zoning Districts
21.20.020	Commercial Coastal Zoning Districts Land Uses
21.20.030	Commercial Coastal Zoning Districts General Development Standards

### 21.20.010 – Purposes of Commercial Coastal Zoning Districts

The purposes of the individual commercial coastal zoning districts and the manner in which they are applied are as follows:

- A. **CC (Commercial Corridor) Coastal Zoning District.** The CC Coastal Zoning District is intended to provide for areas appropriate for a range of neighborhood-serving retail and service uses along street frontages that are located and designed to foster pedestrian activity.
- B. **CG (Commercial General) Coastal Zoning District.** The CG Coastal Zoning District is intended to provide for areas appropriate for a wide variety of commercial activities oriented primarily to serve Citywide or regional needs.
- C. **CM (Commercial Recreational and Marine) Coastal Zoning District.** The CM Coastal Zoning District is intended to provide for areas appropriate for commercial development on or near the waterfront that will encourage the continuation of coastal-dependent and coastal-related uses, maintain the marine theme and character, encourage mutually supportive businesses, encourage visitor-serving and recreational uses, and encourage physical and visual access to the bay on sites located on or near the bay.
- D. **CN (Commercial Neighborhood) Coastal Zoning District.** The CN Coastal Zoning District is intended to provide for areas appropriate for a limited range of retail and service uses developed in one or more distinct centers oriented to serve primarily the needs of and maintain compatibility with residential uses in the immediate area.
- E. **CV (Commercial Visitor-Serving) Coastal Zoning District.** The CV Coastal Zoning District is intended to provide for areas appropriate for accommodations, goods, and services intended to serve primarily visitors to the City.
- F. **OG (Office—General) Coastal Zoning District.** The OG Coastal Zoning District is intended to provide for areas appropriate for administrative, professional, and medical offices with limited accessory retail and service uses.
- G. **OM (Office—Medical) Zoning District.** The OM Coastal Zoning District is intended to provide for areas appropriate primarily for medical-related offices, other professional offices, retail, short-term convalescent and long-term care facilities, research labs, and similar uses.

Newport Beach LCP Implementation Plan - Sept 2013 Draft  
Page 21.2.0-1

### 21.20.020 – Commercial Coastal Zoning Districts Land Uses

- A. **Allowed Land Uses.** Table 2-4 indicates the uses allowed within each coastal zoning district.
- B. **Prohibited Land Uses.** Any table cell with "—" means that the listed land use is prohibited in that specific coastal zoning district.
- C. **Applicable Regulations.** The last column in the tables ("Specific Use Regulations") may include a reference to additional regulations that apply to the use.

TABLE 2-4 ALLOWED USES	Commercial Coastal Zoning Districts							Specific Use Regulation
	A							
	Allowed — Not allowed *							
Land Use	CC	CG	CM	CN	CV	OG	OM	
See Part 7 of this title for land use definitions. See Chapter 21.12 for unlisted uses.								
Industry, Manufacturing and Processing, and Warehousing Uses								
Handcraft Industry	A	A	A	A	A	—	—	
Research and Development, General	—	—	—	—	—	A	A	
Research and Development, Restricted	—	—	—	—	—	A	A	
Recreation, Education, and Public Assembly Uses								
Assembly/Meeting Facilities	A	A	A	A	A	A	A	
Commercial Recreation and Entertainment	A	A	A	A	A	—	—	
Cultural Institutions	A	A	A	—	A	—	—	
Schools, Public and Private	—	A	A	A	A	A	—	
Retail Trade Uses								
Alcohol Sales (off-sale)	A	A	A	A	A	A	A	
Alcohol Sales (off-sale), Accessory Only	A	A	A	A	A	A	A	
Bulk merchandise	—	A	—	A	—	—	—	
Marine Rentals and Sales								
Boat Rentals and Sales	—	A	A	—	A	—	—	
Marine Retail Sales	A	A	A	—	A	—	—	
Retail Sales	A	A	A	A	—	A (1)	—	
Visitor-Serving Retail	A	—	—	—	A	—	—	
Service Uses—Business, Financial, Medical, and Professional								
ATM	A	A	A	A	A	A	A	

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Page 21.2.0-2



# IP Content



- Part 1 – Applicability
  - Purpose, interpretation, maps
- Part 2 – Coastal Zoning Districts
  - Land uses and property development standards (including PCs)
- Part 3 – Site Planning and Development Standards
  - Parking, landscaping, signs, non-conformities
- Part 4 – Standards for Specific Uses
  - Harbor, beaches, public trust lands, ESHA
- Part 5 – Coastal Permit Procedures
  - Authority, procedures, exemptions, exclusions

# IP Content



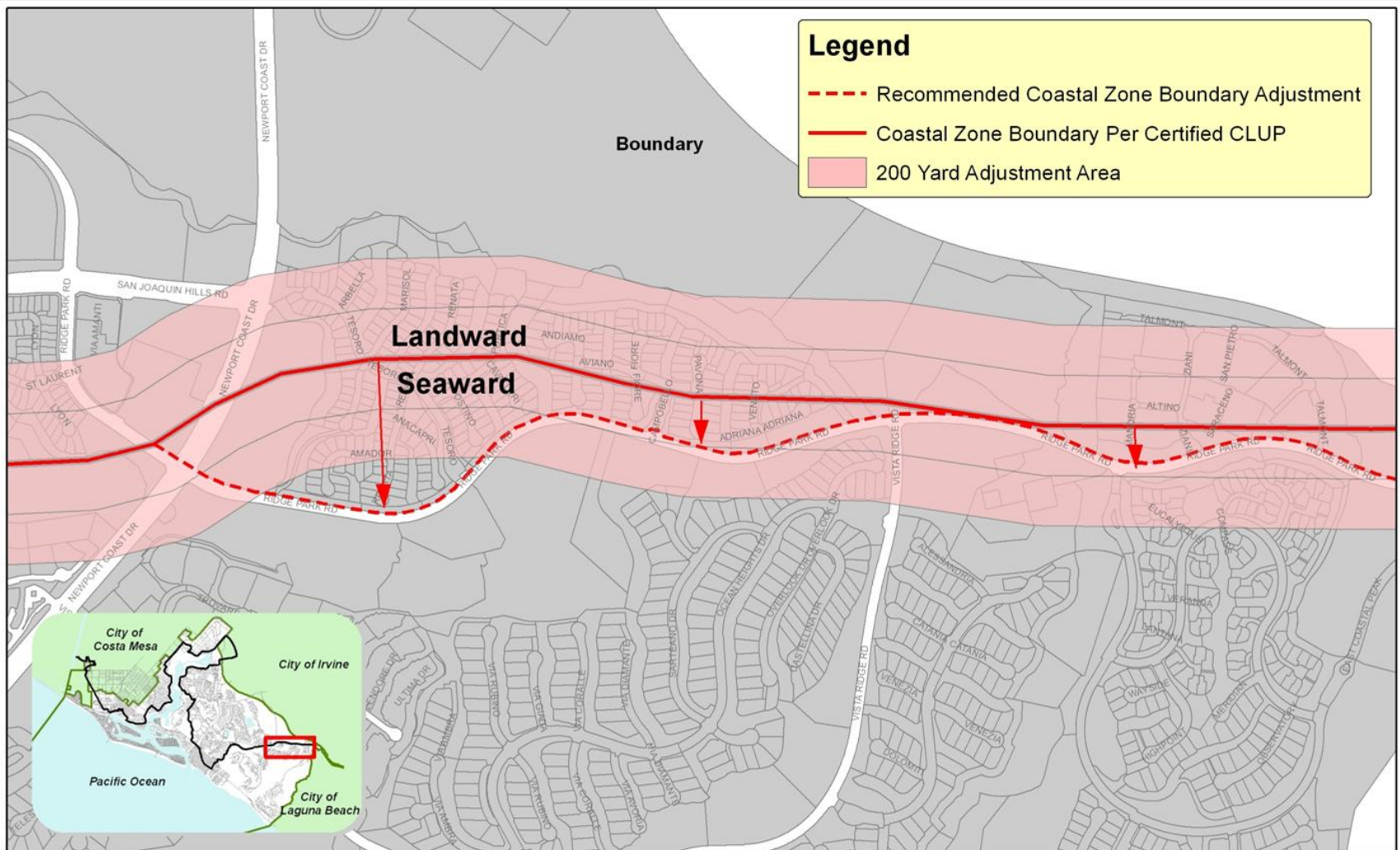
- Part 6 – Administration
  - Hearings, appeals, amendments, enforcement
- Part 7 – Definitions
  - Terms and phrases (including land uses)
- Part 8 – Maps and Site Plans
  - Zoning, height limits, setbacks, permit and appeal jurisdiction, PC site plans
- Part 9 – Specific Plans
  - Santa Ana Heights
- Part 10 – Appendices
  - Applicable guidelines and policies

# Coastal Zone Boundary

Planning Commission  
November 7, 2013







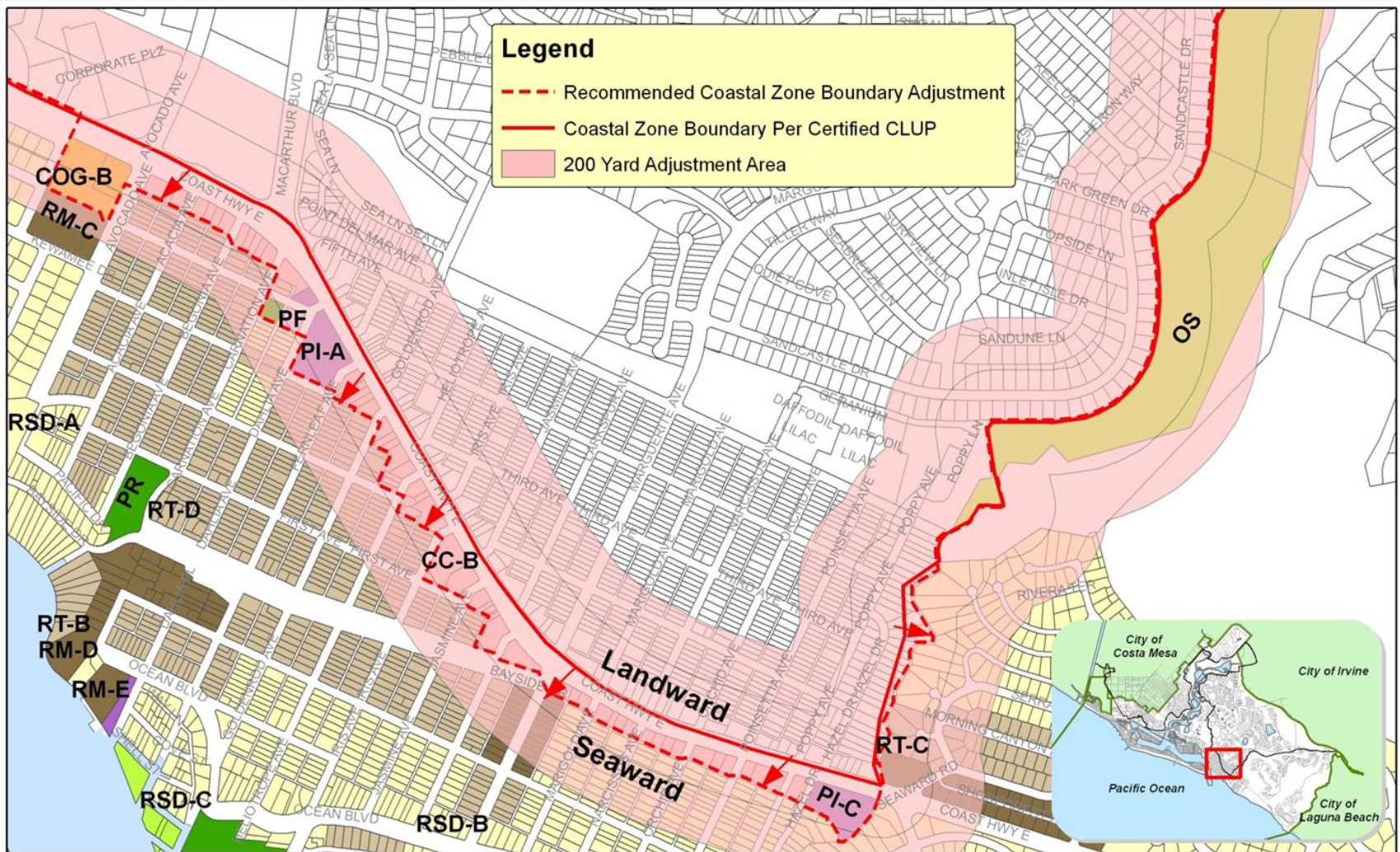
## Newport Coast Map 1

September 25, 2013



0 250 500 1,000  
Feet





# Corona del Mar Map 1A

September 25, 2013



0 250 500 1,000 Feet



# Coastal Bluffs & Canyons

Planning Commission  
November 7, 2013



# Coastal Bluffs

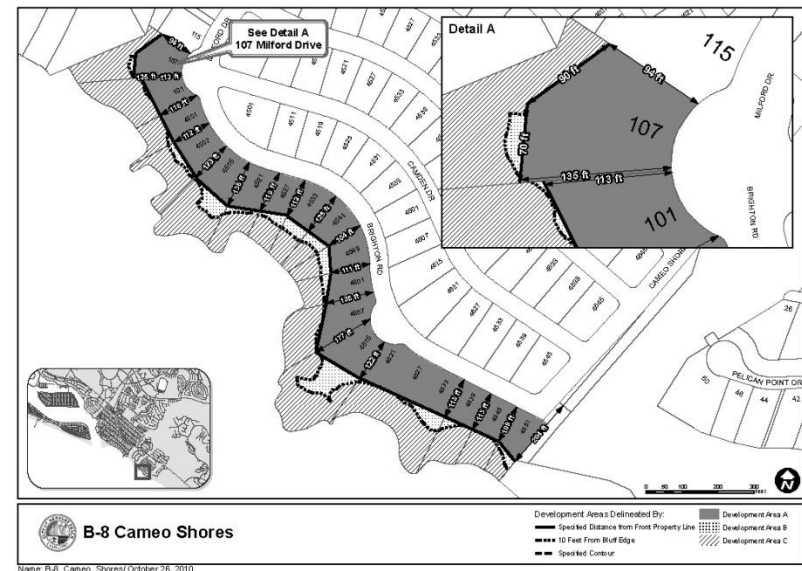


## ■ Bluff Overlay

- Area A
  - Principal & Accessory Structures
- Area B
  - Accessory Structures
- Area C
  - Limited Accessory Structures

## ■ CCC Comments

- Do not relate to CLUP policies
- Lines not guaranteed
- Area C too permissive





# Schedule

Planning Commission  
November 7, 2013



# Tentative Schedule



Task	Estimated Completion Date
Draft IP	
Administration/General Provisions	June 2013
Land Use Regulations	September 2013
Property Development Regulations	November 2013
Access and Resource Protection	February 2014
Community Workshops	March – April 2014
Notice of Intent/60 Day Review Period	May – June 2014
Finalize Draft IP	June – July 2014
Planning Commission Hearings	August – September 2014
City Council Hearings	October – November 2014
Submittal to Coastal Commission	December 2014
Deemed Complete	March 2015
Coastal Commission Staff Review	September 2015
Coastal Commission Hearings	October 2015
City Council Approval of Final IP	November 2015



For more information contact:

Patrick J. Alford, Planning Manager  
949-644-3235  
[PAIford@newportbeachca.gov](mailto:PAIford@newportbeachca.gov)  
[www.newportbeachca.gov](http://www.newportbeachca.gov)